



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 10, 2010

Mr. Donald R. Stout
Colvin & Stout, P.C.
For City of Midlothian
P.O. Box 597
Ennis, Texas 75120

OR2010-02062

Dear Mr. Stout:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 370708.

The City of Midlothian (the "city"), which you represent, received a request for all electronic communications and attachments related to non-city business from city employees during a specified time period. You claim that the submitted information is not subject to the Act or, alternatively, is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered your arguments and reviewed the submitted representative sample of information.²

Section 552.021 of the Government Code provides for public access to "public information," which is defined by section 552.002 of the Government Code as "information that is

¹Although you also initially raised section 552.102 of the Government Code, you have provided no arguments explaining how this exception is applicable to the submitted information. Therefore, we assume you no longer assert this section as an exception to disclosure. *See* Gov't Code §§ 552.301, .302.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it.” Gov’t Code § 552.002(a). Thus, information that is collected, assembled, or maintained by a third party may be subject to disclosure under the Act if a governmental body owns or has a right of access to the information. *See* Open Records Decision No. 462 (1987); *cf.* Open Records Decision No. 499 (1988).

The submitted information consists of e-mails from city employees regarding personal business. You assert that “the requested information does not constitute ‘public information’ and therefore is not subject to public disclosure under the Act.” After reviewing your arguments and the information at issue, we agree that this information does not constitute “information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business” by or for the city. *See* Gov’t Code §§ 552.022, 552.021; *see also* ORD 635 (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving de minimis use of state resources). Therefore, we conclude that the submitted information is not subject to the Act and need not be released in response to this request.³

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

³As this ruling is dispositive, we need not address your argument against disclosure.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)