



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 28, 2010

Ms. Martha T. Williams
Olson & Olson, L.L.P.
Attorney for City of Tomball
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019

OR2010-06059

Dear Ms. Williams:

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# 378668.

The City of Tomball (the "city"), which you represent, received a request for the liability waiver and release submitted for each skater at the Tomball Holiday Ice Rink (the "rink"). You claim portions of the requested information are excepted from disclosure under sections 552.137 and 552.148 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov't Code § 552.137(a)-(c). We note that this exception is not applicable to an institutional e-mail address, an Internet

¹We 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.

website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. You do not inform the owners of the e-mail addresses have consented to the release of their information. Therefore, the city must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless an owner of an e-mail address has affirmatively consented to its release.

You claim some of the remaining information is excepted under section 552.148 of the Government Code, which provides:

- (a) In this section, "minor" means a person younger than 18 years of age.
- (b) The following information maintained by a municipality for purposes related to the participation by a minor in a recreational program or activity is excepted from the requirements of Section 552.021:
 - (1) the name, age, home address, home telephone number, or social security number of the minor;
 - (2) a photograph of the minor; and
 - (3) the name of the minor's parent or legal guardian.

Gov't Code § 552.148(a)-(b). You state the rink is a recreational activity administered by the city and that the responsive documents are maintained by the city as part of that program. Upon review, we agree that some of the documents at issue relate to the participation of minors in a recreational activity. Accordingly, the city must withhold the information we have marked under section 552.148 of the Government Code. However, the remaining information either does not relate to the participation of minors in a recreational activity or does not consist of the types of information that must be withheld under section 552.148(b). Accordingly, none of the remaining information may be withheld under section 552.148.

We note that portions of the remaining information are excepted from disclosure under section 552.130 of the Government Code.² Section 552.130 provides that information relating to a motor vehicle operator's license or driver's license issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1). The city must withhold the Texas driver's license numbers we have marked under section 552.130 of the Government Code.

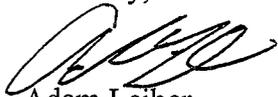
²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the city must withhold the Texas driver's license numbers we have marked under section 552.130 of the Government Code and the e-mail addresses we have marked under section 552.137 of the Government Code, unless an owner of an e-mail address has affirmatively consented to its release.³ The city must also withhold the information we have marked under section 552.148 of the Government Code. The remaining information must be released to the requestor.

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,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 378668

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code and an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.