



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 17, 2010

Mr. Matthew C. G. Boyle
Boyle & Lowry, L.L.P.
4201 Wingren, Suite 108
Irving, Texas 75062-2763

OR2010-06988

Dear Mr. Boyle:

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# 379497.

The Town of Argyle (the "town"), which you represent, received a request for correspondence between six named individuals, the town staff, and three named entities for a specified time period, and for correspondence from six named individuals and town staff pertaining to a proposed "injection well/disposal well/compressor station/natural gas development site near Frenchtown and Jester roads" for a specified time period. You state the town has released most of the requested information. You claim that the submitted information is not subject to the Act and, in the alternative, excepted from disclosure under sections 552.101 and 552.110 of the Government Code. We have considered your arguments and reviewed the submitted information.¹

You assert the submitted information is not public information subject to the Act. The Act is applicable only to "public information." *See* Gov't Code §§ 552.002, .021. Section 552.002(a) provides that "public information" consists of

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

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.

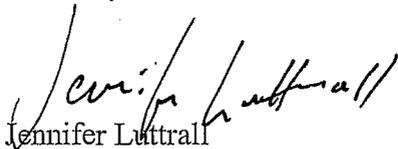
- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

Id. § 552.002(a). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and thus is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You state the submitted information was provided to the town solely for the purpose of responding to the present request for information and consists of private gas leases and associated correspondence between members of the town council, acting in their private capacities, and the listed entities. You assert this information was "created for the personal use of the sender and the recipient" and was not "created or maintained under a law or ordinance and is not connected to official [town] business[.]" Based on your representations and our review of the information at issue, we conclude that the submitted information does not constitute public information for the purposes of section 552.002. *See* Open Records Decision No. 635 at 4 (1995) (section 552.002 not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). Therefore, the submitted information is not subject to the Act, and the town need not release that information in response to this request. As we are able to make this determination, we need not address the exceptions you raised against disclosure.

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 Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 379497

Enc. Submitted documents

c: Requestor
(w/o enclosures)