



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 20, 2011

Ms. Sheri Bryce Dye
Assistant Criminal District Attorney - Civil Section
Bexar County Criminal District Attorney's Office
300 Dolorosa, 4th Floor
San Antonio, Texas 78205-3030

OR2011-10385

Dear Ms. Dye:

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# 426552.

Bexar County Commissioner Rodriguez (the "commissioner") received a request for 1) telephone logs/records for the commissioner's government-issued telephone line for a specified time period; 2) telephone logs/records for the commissioner's government-issued cellular telephones for a specified time period; and 3) e-mails sent or received by the commissioner during a specified time period and containing specific terms. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. Common-law privacy protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. You claim the e-mail addresses and telephone numbers of private individuals are subject to common-law privacy. We note that names, addresses, telephone numbers, educational history and work background of individuals are not highly intimate or embarrassing. *See Open Records Decision No. 455 at 7 (1987)* (names and addresses are not protected by privacy). Upon review, we find that none of the

information at issue is intimate or embarrassing and of no legitimate public interest. Therefore, the commissioner may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

Next, we address your assertion that the e-mail addresses in the submitted e-mails are excepted from disclosure under section 552.137 of the Government Code. Section 552.137 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). *See* Gov't Code § 552.137(a)-(c). Section 552.137 does not apply to a general business address nor to a government employee's work e-mail address because such an address is not that of the employee as a "member of the public," but is instead the address of the individual as a government employee. We note that some of the e-mail addresses in the submitted information are general business addresses and some are maintained by a governmental entity for its employees. As such, those e-mail addresses do not fall within the scope of section 552.137(a) and may not be withheld under that exception. You state that the owners of the remaining e-mail addresses at issue have not consented to the release of their e-mail addresses. Accordingly, the commissioner must withhold the e-mail addresses we have marked under section 552.137 of the Government Code.¹ As no further exceptions to disclosure are raised, the remaining information must be released.

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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/em

¹Open Records Decision No. 684 (2009) is a previous determination authorizing all governmental bodies to withhold ten categories of information, including e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 426552

Enc. Submitted documents

c: Requestor
(w/o enclosures)