



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 29, 2011

Ms. Donna L. Johnson
For City of Clear Lake Shores
Olson & Olson, L.L.P.
2727 Allen Parkway, Suite 600
Houston, Texas 77019

OR2011-12489

Dear Ms. Johnson:

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# 428134.

The City of Clear Lake Shores (the "city"), which you represent, received a request for four categories of information, including e-mails, correspondence, recordings, and arrest records, concerning certain named individuals during a specified period.¹ You state some of the information has been released. You indicate the city has redacted some information pursuant to Open Records Decision No. 684 (2009).² You claim the submitted information is not subject to the Act. We have considered your argument and reviewed the submitted information.

¹You state, and provide documentation showing, the requestor clarified a portion of the request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). *See also City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-business-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

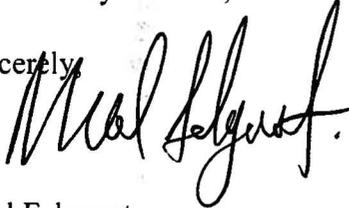
²We note this office has issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision.

The Act is applicable to “public information.” *See* Gov’t Code § 552.021. Section 552.002 of the Act 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: (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). You state the submitted information consists of a personal e-mail that has no connection with city business and represents incidental use of the city’s e-mail by a city employee. After reviewing the submitted information, we agree it 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 id.* § 552.021; *see also* Open Records Decision No. 635 (1995) (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 agree the submitted information is not subject to the Act, and the city need not release it in response to this request.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/agn

Ref: ID# 428134

Enc. Submitted documents

c: Requestor
(w/o enclosures)