



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 6, 2011

Ms. Andrea Sheehan
Ms. Elisabeth Donley Nelson
For the Carrollton-Farmers Branch Independent School District
Law Offices of Robert E. Luna, P.C.
4411 North Central Expressway
Dallas, Texas 75205

OR2011-12863

Dear Ms. Sheehan and Ms. Nelson:

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# 428881.

The Carrollton-Farmers Branch Independent School District (the "district"), which you represent, received two requests, from different requestors, for environmental documents pertaining to a specified property. You state the district will release some of the requested information upon payment. You claim portions of the submitted information are excepted from disclosure under section 552.137 of the Government Code. You also claim release of Exhibit C may implicate the proprietary interests of GME Consulting Services, Inc. ("GME"). Accordingly, you notified GME of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under Act in certain circumstances). You have provided documentation stating GME does not object to the inspection of the information contained within Exhibit C. We have considered the exception you claim and reviewed the submitted information.

Initially, you inform us Exhibit B was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2011-12184 (2011). In that ruling, we determined the district (1) may withhold a portion of the information at issue

under section 552.107 of the Government Code; (2) must withhold the marked e-mail addresses under section 552.137 of the Government Code; and (3) release the remainder of the information at issue in accordance with copyright law. We have no indication there has been any change in the law, facts, and circumstances on which the prior ruling was based. Accordingly, with regard to the information responsive to the instant request for information that is identical to the information previously requested and ruled upon by this office, we conclude the district must continue to rely on Open Records Letter No. 2011-12184 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely the same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure).

You also raise section 552.137 of the Government Code for the e-mail addresses in the information at issue. 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). We note section 552.137 is not applicable to an institutional e-mail address, an Internet website address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, or an e-mail address maintained by a governmental entity for one of its officials or employees. *See* Gov’t Code § 552.137(c). Upon review, we note one of the e-mail addresses you have marked is subject to section 552.137(c). Therefore, the district may not withhold this address, which we have marked for release, under section 552.137. Accordingly, with the exception of the e-mail address we marked for release, the district must withhold the e-mail addresses you have marked in Exhibit C under section 552.137 of the Government Code, unless the owners of the e-mail addresses at issue affirmatively consent to their release.

Finally, you note, and we agree, some of the information in Exhibit C may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, with regard to the information responsive to the instant request for information that is identical to the information previously requested and ruled upon by this office, we conclude the district must continue to rely on Open Records Letter No. 2011-12184 as a previous determination and withhold or release the identical information in accordance with

that ruling. With the exception of the e-mail address we have marked for release, the district must withhold the e-mail addresses you have marked in Exhibit C under section 552.137 of the Government Code, unless the owners of the e-mail addresses at issue affirmatively consent to their release. The remaining information in Exhibit C must be released, but any information in Exhibit C that is protected by copyright may only be released in accordance with copyright law.

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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 428881

Enc. Submitted documents

c: Requestors
(w/o enclosures)

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