



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 31, 2011

Ms. Donna L. Johnson
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2727 Allen Parkway
Houston, Texas 77019

OR2011-15977

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# 434776.

The City of Tomball (the "city"), which you represent, received a request for five categories of information: (1) specified communications referencing a named former city employee from a specified time period; (2) specified e-mails from this former employee's e-mail account from a specified time period; (3) specified cellular telephone records and text messages from a specified time period; (4) the former employee's personnel file, including supporting documentation; and (5) all insurance documents from the administrator of the medical and dental plan and basis of rate documents. You state some of the requested information has or will be released. You also state the city does not have copies of the requested text messages and certain requested cellular telephone records.¹ Further, you state the city will redact social security numbers pursuant to section 552.147 of the Government

¹We note the Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

Code.² You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.103, 552.105, 552.106, 552.107, 552.111, 552.117, and 552.136 of the Government Code. We also understand you to raise section 552.130 of the Government Code. Additionally, you inform us the city has notified a named individual of the request and of their opportunity to submit comments to this office. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released). As of the date of this decision, this office has not received correspondence from this individual. We have considered your arguments and reviewed the submitted representative sample of information.³

Initially, we address your claim that portions of the information submitted in Exhibit 3 are confidential under the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), 42 U.S.C. §§ 1320d-1320d-8. At the direction of Congress, the Secretary of Health and Human Services (“HHS”) promulgated regulations setting privacy standards for medical records, which HHS issued as the Federal Standards for Privacy of Individually Identifiable Health Information. *See* Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d-2 (Supp. IV 1998) (historical & statutory note); Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Pts. 160, 164 (“Privacy Rule”); *see also* Attorney General Opinion JC-0508 at 2 (2002). These standards govern the releasability of protected health information by a covered entity. *See* 45 C.F.R. pts. 160, 164. Under these standards, a covered entity may not use or disclose protected health information, except as provided by parts 160 and 164 of the Code of Federal Regulations. *See id.* § 164.502(a). This office has addressed the interplay of the Privacy Rule and the Act. In Open Records Decision No. 681 (2004), we noted section 164.512 of title 45 of the Code of Federal Regulations provides a covered entity may use or disclose protected health information to the extent such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law. *See* 45 C.F.R. § 164.512(a)(1). We further noted the Act “is a mandate in Texas law that compels Texas governmental bodies to disclose information to the public.” *See* ORD 681 at 8; *see also* Gov't Code §§ 552.002, .003, .021. We, therefore, held the disclosures under the Act come within section 164.512(a). Consequently, the Privacy Rule does not make information confidential for the purpose of section 552.101 of the Government Code. *See Abbott v. Tex. Dep't of Mental Health & Mental Retardation*, 212 S.W.3d 648 (Tex. App.—Austin 2006, no pet.); ORD 681 at 9; *see also* Open Records Decision No. 478 (1987) (as general rule, statutory confidentiality requires express language making information confidential). Thus,

²Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting an attorney general decision under the Act. Gov't Code § 552.147(b).

³We assume 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 those records contain substantially different types of information than that submitted to this office.

because the Privacy Rule does not make information that is subject to disclosure under the Act confidential, the city may withhold protected health information from the public only if the information is confidential by law or an exception in subchapter C of the Act applies.

Next, we note that some of the information in Exhibit 3 is subject to section 552.022 of the Government Code. This section provides in pertinent part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). Exhibit 3 contains completed employee evaluations subject to section 552.022(a)(1). The city may only withhold this information if it is made confidential under "other law." Although you seek to withhold the information at issue under section 552.103 of the Government Code, this is a discretionary exception that protects a governmental body's interest and may be waived. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). As such, section 552.103 is not "other law" that makes information confidential for the purposes of section 552.022. Thus, the city may not withhold the completed evaluations in Exhibit 3 that are subject to section 552.022 under section 552.103. However, because sections 552.101, 552.102, 552.117, and 552.130 of the Government Code are "other law" for purposes of section 552.022, we will consider your arguments under these sections for this information. We will also consider your arguments against disclosure of the submitted information not subject to section 552.022.

We will first address your claims under section 552.103 of the Government Code for the information in Exhibit 3 that is not subject to section 552.022. Section 552.103 provides, in relevant part:

(a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a), (c). The governmental body has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated on the date the governmental body received the request for information and (2) the information at issue is related to that litigation. *Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.—Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). The governmental body must meet both prongs of this test for information to be excepted under section 552.103(a).

To establish that litigation is reasonably anticipated, a governmental body must provide this office “concrete evidence showing that the claim that litigation may ensue is more than mere conjecture.” Open Records Decision No. 452 at 4 (1986). Whether litigation is reasonably anticipated must be determined on a case-by-case basis. *See id.* This office has stated a pending complaint with the Equal Employment Opportunity Commission (the “EEOC”) indicates litigation is reasonably anticipated. Open Records Decision Nos. 386 at 2 (1983), 336 at 1 (1982).

You have submitted documents to this office showing that, prior to the city’s receipt of the request for information, the requestor’s client filed a complaint against the city with the EEOC. Based on your representations and our review of the submitted information, we find you have demonstrated that litigation was reasonably anticipated when the city received the request for information. You state that the information at issue is related to the anticipated litigation. Thus, we find the city has established this information relates to the anticipated litigation for purposes of section 552.103(a).

We note, however, the purpose of section 552.103 is to enable a governmental body to protect its position in litigation by forcing parties seeking information relating to the litigation to obtain such information through discovery procedures. *See* ORD 551 at 4-5. Thus, information that has been obtained from or provided to the opposing party may not be withheld from public disclosure under section 552.103. *See* Open Records Decision Nos. 349 (1982), 320 (1982). In this instance, some of the information at issue has been seen by the opposing party in the anticipated litigation. Thus, this information may not be withheld under section 552.103. We note information to which the requestor’s client had access in the usual scope of his employment with the city is not considered to have been obtained by the opposing party. Accordingly, the city may withhold the information we have

marked in Exhibit 3 under section 552.103.⁴ We note the applicability of section 552.103 ends once the related litigation concludes. *See* Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We will now address your arguments for the remaining information in Exhibit 3, as well as the other exhibits. You assert section 552.101 of the Government Code in conjunction with common-law privacy for portions of the remaining information in Exhibit 3. Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *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. In this instance, the information at issue pertains to current or former city employees. This office has determined in numerous formal decisions that the public has a legitimate interest in the qualifications and performance of public employees. *See e.g.*, Open Records Decisions Nos. 562 at 10 (1990) (personnel file information does not involve most intimate aspects of human affairs, but in fact touches on matters of legitimate public concern), 542 (1990), 470 at 4 (1987) (public has legitimate interest in job qualifications and performance of public employees), 444 at 5-6 (1986) (public has legitimate interest in knowing reasons for dismissal, demotion, promotion, or resignation of public employees), 423 at 2 (1984) (scope of public employee privacy is narrow). This office also has found that there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See generally* Open Record Decision No. 545 (1990) (financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common-law privacy). However, a public employee’s allocation of part of the employee’s salary to a voluntary investment, health or other program offered by the employer is a personal investment decision, and information about that decision is protected by common-law privacy. *See, e.g.*, Open Records Decision Nos. 600 (employee’s designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (deferred compensation information, participation in voluntary investment program, and election of optional insurance coverage). Whether financial information is subject to a legitimate public interest and therefore not protected by common-law privacy must be determined on a case-by-case basis. *See* Open Records Decision No. 373 (1983). We note the information at issue pertains mostly to the requestor’s client. Section 552.023(a) of the Government Code states that a person or person’s authorized representative has a special right of access to information that is

⁴As our ruling for this information is dispositive, we need not address your remaining arguments against its disclosure.

excepted from public disclosure under laws intended to protect that person's privacy interest. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, the requestor has a right of access to his client's information and the city may not withhold this information under section 552.101 in conjunction with common-law privacy. Furthermore, we find that no portion of the remaining information in Exhibit 3 is highly intimate or embarrassing and not of legitimate public interest. Thus, the city may not withhold any of this information under section 552.101 in conjunction with common-law privacy.

You also raise section 552.102(a) of the Government Code for portions of the remaining information in Exhibit 3. Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court recently held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex. & The Dallas Morning News, Ltd.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010). You have marked the birth date of the requestor's client. However, as previously noted, the requestor has a right of access to his client's own personal information. *See* Gov't Code § 552.023(a); ORD 481 at 4. Accordingly, the city may not withhold any of the remaining information in Exhibit 3 under section 552.102(a).

You claim portions of the remaining information in Exhibit 3 and the information submitted in Exhibit 8 are subject to section 552.117 of the Government Code. This section excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov't Code § 552.117(a)(1)). We note section 552.117 encompasses a personal cellular telephone number, provided that a governmental body does not pay for the cellular telephone service. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). We also note that an individual's personal post office box number is not a "home address" for purposes of section 552.117, and therefore may not be withheld under section 552.117. *See* Open Records Decision No. 622 at 6 (1994) (legislative history makes clear that purpose of section 552.117 is to protect public employees from being harassed at *home*) (citing House Committee on State Affairs, Bill Analysis, H.B. 1979, 69th Leg. (1985) (emphasis added)). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Therefore, to the extent the individuals whose information we have marked in Exhibit 8 timely elected

confidentiality under section 552.024, the city must withhold this information under section 552.117(a)(1); however, the city may only withhold the marked cellular telephone numbers if these individuals pay for the cellular telephone service with personal funds. If, however, these individuals did not timely elect to keep their personal information confidential, the personal information we marked in Exhibits 8 may not be withheld under section 552.117(a)(1). As to the remaining information you have marked in Exhibit 3 under section 552.117, we note that this section protects personal privacy. Thus, as noted above, the requestor has a right of access to his client's private information under section 552.023. *See* Gov't Code § 552.023(a); ORD 481 at 4. Therefore, the city may not withhold any of the requestor's client's information under section 552.117.

You also raise section 552.130 of the Government Code for a portion of the remaining information in Exhibit 3. Section 552.130 provides information relating to a motor vehicle operator's license or driver's license issued by a Texas agency, or an agency of another state or country, is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(1)). In this instance, you have marked the driver's licence number of the requestor's client under section 552.130. We note, however, section 552.130 also protects personal privacy. Accordingly, as discussed above, the requestor has a right of access to his client's driver's license number. *See* Gov't Code § 552.023(a); ORD 481 at 4. Thus, this information may not be withheld under section 552.130.

You assert the information submitted in Exhibit 5 is excepted from disclosure under section 552.105 of the Government Code. This section excepts from disclosure information relating to "appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property." Gov't Code § 552.105(2). Section 552.105 is designed to protect a governmental body's planning and negotiating position with respect to particular transactions. Open Records Decision Nos. 564 at 2 (1990), 357 (1982), 310 (1982). Information that is excepted from disclosure under section 552.105 that pertains to such negotiations may be excepted from disclosure so long as the transaction relating to that information is not complete. *See* ORD 310. But the protection offered by section 552.105 is not limited solely to transactions not yet finalized. This office has held that section 552.105 applies to leases as well as purchases of real estate. *See* Open Records Decision No. 348 (1982). A governmental body may withhold information "which, if released, would impair or tend to impair [its] 'planning and negotiating position in regard to particular transactions.'" ORD 357 at 3 (quoting Open Records Decision No. 222 (1979)). The question of whether specific information, if publicly released, would impair a governmental body's planning and negotiating position with regard to particular transactions is a question of fact. Accordingly, this office will accept a governmental body's good-faith determination in this regard, unless the contrary is clearly shown as a matter of law. *See* ORD 564.

You inform us Exhibit 5 pertains to projects that have not been completed. However, you do not explain how release of any of the information in Exhibit 5 would impair the city's planning or negotiating position with regard to any particular transaction. Thus, none of the information in Exhibit 5 may be withheld under section 552.105.

You claim that portions of the information submitted in Exhibit 7 are excepted from disclosure under section 552.107 of the Government Code. This section protects information coming within the attorney-client privilege. When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. Open Records Decision No. 676 at 6-7 (2002). First, a governmental body must demonstrate that the information constitutes or documents a communication. *Id.* at 7. Second, the communication must have been made "for the purpose of facilitating the rendition of professional legal services" to the client governmental body. TEX. R. EVID. 503(b)(1). The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *In re Tex. Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in a capacity other than that of attorney). Third, the privilege applies only to communications between or among clients, client representatives, lawyers, and lawyer representatives. TEX. R. EVID. 503(b)(1). Thus, a governmental body must inform this office of the identities and capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a confidential communication, *id.* 503(b)(1), meaning it was "not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication." *Id.* 503(a)(5).

Whether a communication meets this definition depends on the intent of the parties involved at the time the information was communicated. *Osborne v. Johnson*, 954 S.W.2d 180, 184 (Tex. App.—Waco 1997, no pet.). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain that the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. *See Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein).

You inform us the information you have marked in Exhibit 7 consists of communications between the city's attorney, attorney representatives, and city employees that were made in furtherance of the rendition of professional legal services to the city. You state these communications were not intended to be disclosed to third persons. Based on your representations and our review, we conclude the city has established the information at issue

is protected by the attorney-client privilege. Therefore, the city may withhold the information you marked in Exhibit 7 under section 552.107(1).

You raise section 552.111 of the Government Code for the information submitted in Exhibit 6. Section 552.111 excepts from disclosure “an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.” Gov’t Code § 552.111. This exception encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, no writ); *see also* Open Records Decision No. 538 at 1-2 (1990).

In Open Records Decision No. 615, this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined that section 552.111 excepts only those internal communications that consist of advice, opinions, recommendations and other material reflecting the policymaking processes of the governmental body. *See* ORD 615 at 5. A governmental body’s policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *See id.*; *see also City of Garland v. The Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body’s policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body’s policy mission. *See* Open Records Decision No. 631 at 3 (1995).

Further, section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. *See* ORD 615 at 5. But, if factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make severance of the factual data impractical, the factual information also may be withheld under section 552.111. *See* Open Records Decision No. 313 at 3 (1982).

Section 552.111 can also encompass communications between a governmental body and a third-party, including a consultant or other party with a privity of interest. *See* Open Records Decision No. 561 at 9 (1990) (section 552.111 encompasses communications with party with which governmental body has privity of interest or common deliberative process). For section 552.111 to apply, the governmental body must identify the third party and explain the nature of its relationship with the governmental body. Section 552.111 is not applicable to a communication between the governmental body and a third party unless the governmental body establishes it has a privity of interest or common deliberative process with the third party. *See* ORD 561 at 9.

You assert the e-mails and attachments in Exhibit 6 consist of communications that contain advice, opinions, and recommendations relating to the city's policymaking processes. Based on your representations and our review, we find the city may withhold the information we have marked in Exhibit 6 under section 552.111.⁵ However, we find the remaining information in this exhibit is purely factual in nature. Accordingly, we conclude the city may not withhold any of the remaining information in Exhibit 6 under section 552.111.

You claim section 552.136 of the Government Code for portions of the information in Exhibit 8. Section 552.136 provides that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential. Gov't Code § 552.136(b), *see also id.* § 552.136(c) (defining “access device”). You have marked a cellular telephone account number in Exhibit 8 under section 552.136. Upon review, we agree the city must withhold this information under section 552.136.

Finally, we note some of the remaining information in Exhibits 5, 6, and 7 contain personal e-mail addresses.⁶ 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).⁷ *Id.* § 552.137(a)-(c). The e-mail addresses at issue are not specifically excluded by section 552.137(c). As such, the e-mail addresses we have marked in the remaining information must be withheld under section 552.137, unless the owners of the addresses have affirmatively consented to their release. *See id.* § 552.137(b).

In summary, the city may withhold the information we marked in Exhibit 3 under section 552.103 of the Government Code. To the extent the individuals whose information we marked in Exhibit 8 timely elected confidentiality under section 552.024 of the Government Code, the city must withhold this information under section 552.117(a)(1) of the Government Code; however, the city may only withhold the marked cellular telephone numbers if these individuals pay for the cellular telephone service with personal funds. If, however, these individuals did not timely elect to keep their personal information confidential, the personal information we marked in Exhibit 8 may not be withheld under

⁵As our ruling for this information is dispositive, we need not address your remaining argument against disclosure.

⁶The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

⁷We note the previous determination issued in Open Records Decision No. 684 (2009) authorizes all governmental bodies to withhold 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.

section 552.117(a)(1) of the Government Code. The city may withhold the information you marked in Exhibit 7 under section 552.107(1) of the Government Code. The city may withhold the information we marked in Exhibit 6 under section 552.111 of the Government Code. The city must withhold the information you marked under section 552.136 of the Government Code. Finally, the e-mail addresses we marked must be withheld under section 552.137 of the Government Code, unless the owners of the addresses have affirmatively consented to their release. The remaining information must be released.⁸

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/agn

Ref: ID# 434776

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁸We note the information being released contains confidential information to which the requestor has a right of access. See Gov't Code § 552.023(a), ORD 481 at 4. However, if the city receives another request for this information from a different requestor, then the city should again seek a decision from this office.