



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 19, 2013

Mr. Ronny H. Wall
Associate General Counsel
Office of General Counsel
Texas Tech University System
P.O. Box 42021
Lubbock, Texas 79409-2021

OR2013-20153

Dear Mr. Wall:

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# 506186.

Texas Tech University (the "university") received a request for the names, addresses, and e-mail addresses of all current season ticket holders for football, baseball, and basketball. You state you do not have information responsive to a portion of the request.¹ You claim the submitted information is excepted from disclosure under sections 552.1235, 552.117, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the portions of the submitted information which are labeled "Customer Number", "Item", "ItemPL", and "Seatblocks" are not responsive to the instant request for information. This ruling does not address the public availability of nonresponsive information, and the university is not required to release nonresponsive information in response to this request.

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

Section 552.1235 excepts from disclosure “[t]he name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or donation of money or property to an institution of higher education[.]” Gov’t Code § 552.1235(a). For purposes of this exception, “institution of higher education” is defined by section 61.003 of the Education Code. *Id.* § 552.1235(c). Section 61.003 defines an “[i]nstitution of higher education” as meaning “any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined in this section.” Educ. Code § 61.003(8). Because section 552.1235 does not provide a definition of “person,” we look to the definition provided in the Code Construction Act. *See* Gov’t Code § 311.005. “Person” includes a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity. *Id.* § 311.005(2).

You state the information labeled “Donor” identifies donors to the university. We note, a post office box number does not tend to disclose a person’s identity; thus, the university may not withhold the post office box numbers in the submitted information as identifying information of donors under section 552.1235. Thus, we find the university must withhold the donors’ identifying information pursuant to section 552.1235 of the Government Code.²

Section 552.117(a)(1) 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 that this information be kept confidential under section 552.024 of the Government Code. *Id.* § 552.117(a)(1). We note that an individual’s personal post office box number is not a “home address” for purposes of 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*” (emphasis added) (citing House Committee on State Affairs, Bill Analysis, H.B. 1979, 69th Leg. (1985)). Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the university may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. You state the employees whose information is at issue timely elected confidentiality pursuant to section 552.024 of the Government Code. Accordingly, the university must withhold the information we have marked under section 552.117(a)(1) of the Government Code. However, we find none of the remaining information is subject to section 552.117(a)(1) of the Government Code, and none of it may be withheld on that basis.

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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). See Gov’t Code § 552.137(a)-(c). The e-mail addresses at issue are not excluded by subsection (c). In regards to the non-donor e-mail addresses, you also inform us that “some of the addresses are ttu.edu or ttuhsc.edu addresses, but they do not appear to be employees or officers of the university.” Based on this representation and our review, we find the university must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure.³

In summary, the university must withhold the donors’ identifying information pursuant to section 552.1235 of the Government Code. The university must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The university must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their release. The university must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Thana Hussaini
Assistant Attorney General
Open Records Division

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³Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them 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# 506186

Enc. Submitted documents

c: Requestor
(w/o enclosures)