



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 29, 2014

Mr. Mark Anthony Sanchez
Counsel for Housing Authority of Bexar County
Gale, Wilson & Sanchez, PLLC
115 East Travis, 19th Floor
San Antonio, Texas 78205

OR2014-17291

Dear Mr. Sanchez:

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# 537567 (GWS File No. 5736).

The Housing Authority of Bexar County (the "authority"), which you represent, received a request for (1) the e-mail addresses for each commissioner who serves on the authority's board; (2) the title, job description, job requirements, and salary of a named individual; (3) the title and salary of a named individual; (4) copies of invoices for purchases made by two named individuals using the authority's credit accounts during a specified time period; (5) the authority's website to access board agendas and announcements; and (6) the name of the authority's employee in charge of human resources. We understand you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.117, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, you claim portions of the request require the authority to prepare answers or conduct legal research. The Act does not require a governmental body to answer general questions, perform legal research, or 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 *dism'd*); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good-faith effort to relate a request to any responsive information that is within its possession or control. Open Records Decision No. 561 at 8-9 (1990). Therefore, while the authority is not required to answer general questions or create documents that did not exist at the time of the request, documents from which answers to a question can be derived are responsive to this request. We note portions of the request at issue do not specifically ask a question, but rather seek information regarding the authority's website and the name of a specified employee. Accordingly, to the extent documentation exists containing the information at issue, it must be released. *See Gov't Code* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we note portions of the submitted documents do not fall within the categories of information requested. Thus, this information, which we have marked, is not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request, and the authority is not required to release that information in response to the request.

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. This exception encompasses information other statutes make confidential, such as the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. However, we note there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 600 at 9 (1992) (information revealing that employee participates in group insurance plan funded partly or wholly by governmental body is not excepted from disclosure), 545 (1990) (financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common-law privacy). Upon review, we find you have failed to demonstrate the submitted information is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the authority may not withhold any portion of the submitted information under section 552.101 of the Government Code on the basis of common-law privacy.

Section 552.117(a)(1) of the Government Code applies to records a governmental body holds in an employment capacity and 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. Gov't Code § 552.117(a)(1). Upon review, we find no portion of the submitted information consists of the home address or telephone number, emergency contact information, social security number, or family member information of a current or former official or employee of the authority. Accordingly, the authority may not withhold any portion of the submitted information under section 552.117(a)(1).

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], 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.”¹ *Id.* § 552.136(b). Upon review, the authority must withhold the credit card account numbers we have marked under section 552.136 of the Government Code.

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). *Id.* § 552.137(a)-(c). Upon review, we find the authority must withhold the personal e-mail addresses of the commissioners who serve on the authority’s board under section 552.137 of the Government Code, unless the owners affirmatively consent to their release.

Section 552.147 of the Government Code excepts from disclosure the social security number of a living person. *Id.* § 552.147. Upon review, we find none of the submitted information consists of a social security number. As such, the authority may not withhold any portion of the submitted information under section 552.147.

In summary, the authority must withhold the credit card account numbers we have marked under section 552.136 of the Government Code. The authority must withhold the personal e-mail addresses of the commissioners who serve on the authority’s board under section 552.137 of the Government Code, unless the owners affirmatively consent to their release. 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.

¹The 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).

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,



Lauren Dahlstein
Assistant Attorney General
Open Records Division

LMD/som

Ref: ID# 537567

Enc. Submitted documents

c: Requestor
(w/o enclosures)