



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 18, 2016

Ms. Kristina Laurel Hale  
First Assistant City Attorney  
Office of the City Attorney  
City of Laredo  
P.O. Box 759  
Laredo, Texas 78042-0579

OR2016-23339

Dear Ms. Hale:

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# 635503 (ORR# W006515).

The City of Laredo (the "city") received a request for a copy of the hard drive of the computer of a named city council member and a directory of any deleted files. You state the city is releasing some of the requested information. You argue the submitted information does not consist of public information subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.107 and 552.109 of the Government Code. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>1</sup>

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<sup>1</sup>We 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.

You argue the requested information at issue is not subject to the Act. The Act applies to “public information,” which is defined in section 552.002(a) of the Government Code as

information that is written, produced, 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:
  - (A) owns the information;
  - (B) has a right of access to the information; or
  - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

Gov’t Code § 552.002(a). Information is “in connection with the transaction of official business” if it is “created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer’s or employee’s official capacity, or a person or entity performing official business or a government function on behalf of a governmental body, and pertains to official business of the governmental body.” *Id.* § 552.002(a-1). Thus, virtually all of the information in a governmental body’s physical possession constitutes public information and is subject to the Act. *See* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988).

You inform us the submitted information consists of personal documents belonging to the named city council member and maintained by the named city council member on the hard drive of a computer provided by the city for his use. You inform us the named city council member is also an attorney in private practice, and you state some of the information at issue relates to his private practice. You also state some of the information at issue relates to the named city council member’s personal life and his personal finances. You state the information at issue is not maintained by the named city council member in his official capacity, but rather in his private capacity, and you inform us the information is purely personal in nature and does not concern the business of the city. Thus, you inform us this information was not written, produced, collected, or assembled, and is not maintained,

pursuant to any law or ordinance or in connection with the transaction of the city's official business.<sup>2</sup>

You also argue the requested directory of deleted files does not constitute "public information" subject to the Act. In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. You inform our office computer software programs keep track of the location of files by storing the location of data in the "file allocation table" ("FAT") of a computer's hard disk. The software then displays the file as being in a specific storage location. Usually, but not always, when a file is "deleted," it is not actually deleted, but the display of the location is merely shown to be moved to a "trash bin" or "recycle bin." Later, when files are "deleted" or emptied from these "trash bins," the location of the data is deleted from the FAT. You inform us the FAT is a passive tool that is not created by a public official. Upon review, we find the directory of deleted files, or FAT, has no significance other than its use as a tool for the maintenance, manipulation, or protection of public information.

Based on your representations and our review of the submitted information, we find the submitted information does not constitute "information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for the city. See Gov't Code § 552.002. Therefore, we conclude the information at issue does not constitute public information for purposes of section 552.002 of the Government Code. See Open Records Decision No. 635 at 7 (1995) (section 552.002 not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). Accordingly, the city is not required to release the submitted information in response to the request for information. As we are able to make this determination, we need not address the city's claimed exceptions to disclosure.

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.

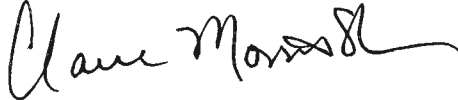
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

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<sup>2</sup>Please note the city does not inform our office whether personal or incidental use of the city's technological resources by city employees and officials is consistent with city policy. This ruling only addresses the applicability of the Act to the information at issue and does not otherwise address the named city council member's personal use of city equipment.

[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,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 635503

Enc. Submitted documents

c: Requestor  
(w/o enclosures)