



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 16, 2020

Ms. Akilah Mance
Counsel for City of Hunters Creek Village
Olson & Olson, LLP
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019-2133

OR2016-28571A

Dear Ms. Mance:

Our office issued Open Records Letter No. 2016-28571 (2016) to the Office of the Attorney General (the "OAG") on December 29, 2016. Since that date, we have received new information that affects the facts on which this ruling was based. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on December 29, 2016. *See generally* Gov't Code § 552.011 (providing that this office may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act"), chapter 552 of the Government Code). This ruling was assigned ID# 642070 (ORR# HC16-007).

The City of Hunter's Creek Village (the "city"), which you represent, received a request for communications with city council members regarding specified topics. The city states it has released some of the requested information, but claims the submitted information is either not subject to the Act or excepted from disclosure under section 552.101 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

You argue the information at issue is not subject to the Act. The Act is applicable only to "public information." *See* Gov't Code §§ 552.002, .021. Section 552.002(a) reads as follows:

(a) In this chapter, "public information" means 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;

(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.

Id. § 552.002(a). You explain the information at issue constitutes personal text message and electronic mail exchanges involving a council member and his spouse and that the communications were not made in the council member's official capacity. Based on your representations and our review of the information at issue, we conclude the submitted information does not constitute public information for purposes of [section 552.002 of the Government Code](#). See Open Records Decision No. 635 at 4 (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). Thus, we conclude the information at issue is not subject to the Act and need not be released in response to this request.¹

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/be

¹ As we are able to make this determination, we need not address your remaining arguments against disclosure.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)