



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 25, 2019

Mr. Michael C. Hayes
City Attorney
City of Kerrville
701 Main Street
Kerrville, Texas 78028

OR2019-05153

Dear Mr. Hayes:

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# 751939.

The City of Kerrville (the "city") received a request for all applications for a specified committee. You claim some of the submitted information is excepted from disclosure under section 552.148 of the Government Code.¹ We have considered the exception 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 written comments regarding why information should or should not be released).

Section 552.148 of the Government Code provides the following:

- (a) In this section, "minor" means a person younger than 18 years of age.

¹We note the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.148 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

(b) The following information maintained by a municipality for purposes related to the participation by a minor in a recreational program or activity is excepted from the requirements of Section 552.021:

- (1) the name, age, home address, home telephone number, or social security number of the minor;
- (2) a photograph of the minor; and
- (3) the name of the minor's parent or legal guardian.

Gov't Code § 552.148. You informs us the information at issue is maintained by the city and pertains to the Kerrville Youth Advisory Committee (the "KYAC") which is a recreational program as contemplated by section 552.148. The city states the information it marked identifies minors that are members of the KYAC. Upon review, we agree the information of which the city marked a representative sample is generally confidential under section 552.148. However, we note section 552.148 was intended to protect certain personal information of persons under eighteen year of age. *See* SENATE COMM. ON STATE AFFAIRS, BILL ANALYSIS, Tex. S.B. 123, 80th Leg., R.S. (2007). Accordingly, we find this statute protects personal privacy. Section 552.023(a) of the Government Code provides a person or a person's authorized representative has a special right of access to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests. Gov't Code § 552.023(a). In this instance, the requestor is one of the individuals whose privacy interests are implicated. Accordingly, the city may not withhold such information from this requestor on the basis of section 552.148. However, with the exception of the information pertaining to the requestor, the city must withhold information of the type it marked, and the additional information we marked, under section 552.148 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).² *Id.* § 552.137(a)-(c). The e-mail addresses at issue are not a type specifically excluded by section 552.137(c) of the Government Code. Accordingly, the city must withhold the e-mail addresses we marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consent to their disclosure.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, with the exception of information pertaining to the requestor, the city must withhold information of the type it marked, and the additional information we marked, under section 552.148 of the Government Code. The city must withhold the e-mail addresses we marked under section 552.137 of the Government Code, unless the owner of the e-mail addresses affirmatively consent to their disclosure. The city must release the remaining information.³

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,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/mo

Ref: ID# 751939

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, the city must again seek a decision from this office if it receives another request for the same information from another requestor.