



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 2, 2019

Ms. Leath Robinson  
City Secretary  
City of Leonard  
P.O. Box 1270  
Leonard, Texas 75452

OR2019-18229

Dear Ms. Robinson:

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# 773442.

The City of Leonard (the "city") received a request for the e-mail address and contact information for the city's mayor and city council members.

You state the mayor and city council members do not have "public city e-mail addresses. . . [s]ame with phone numbers and other contact information." We note 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). Section 552.002(a-1) also provides the following:

Information is in connection with the transaction of official business if the information 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 governmental 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, thus, is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information that a governmental body does not physically possess, if the information is collected, assembled, or maintained for the governmental body, and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2); *see* Open Records No. 462 at 4 (1987). Further, information that is written, produced, collected, assembled, or maintained by an individual officer or employee of a governmental body in the officer's or employee's official capacity may be subject to disclosure under the Act if the information pertains to official business of the governmental body. Gov't Code § 552.002(a)(3). Information is "in connection with the transaction of official business" if the information is created by, transmitted to, received by, or maintained by a person or entity performing official business or a government function on behalf of a governmental body and the information pertains to official business of the governmental body. *See id.* § 552.002(a-1). Accordingly, we conclude to the extent the requested information is not maintained by any officer or employee of the city in the officer's or employee's capacity or the information does not pertain to official city business, it is not subject to the Act and need not be released. However, to the extent the requested information is maintained by any officer or employee of the city in the officer's or employee's official capacity and the information pertains to official city business, it is subject to the Act, and must be released unless an exception to disclosure applies to the information. *See id.* §§ 552.301(a), .302.

Next, we must address the city's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *Id.*

§ 552.301(e). In this instance, you state the city received the request for information on April 12, 2019. However, as of the date of this letter, you have not submitted for our review written arguments as to why any exceptions to disclosure apply or a copy or representative sample of the information requested. Consequently, we find the city failed to comply with section 552.301 of the Government Code.

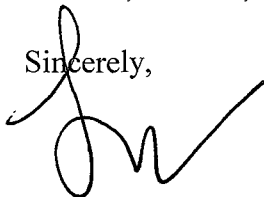
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). Because the city has not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, to the extent the requested information is maintained by any officer or employee of the city in the officer's or employee's official capacity and the information pertains to city business, we have no choice but to order the requested information released pursuant to section 552.302 of the Government Code.

In summary, to the extent the requested information does not relate to city employees acting in their official capacities or the information does not pertain to city business, it is not subject to the Act and need not be released. However, to the extent the requested information relates to city employees acting in their official capacities or the information pertains to city business, it is subject to the Act, and must be released pursuant to section 552.302 of the Government Code.

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](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,

A handwritten signature in black ink, appearing to read 'Jahna Ward', with a stylized flourish extending to the right.

Jahna Ward  
Assistant Attorney General  
Open Records Division

JW/gw

Ref: ID# 773442

c: Requestor