



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 22, 2019

Ms. Kristen O. Fancher
Counsel for the Harris-Galveston Subsidence District
Fancher Legal, PLLC
6136 Frisco Square Boulevard, Suite 400
Frisco, Texas 75034

OR2019-19924

Dear Ms. Fancher:

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# 775365.

The Harris-Galveston Subsidence District (the "district"), which you represent, received a request for information exchanged between the district and a named company or either of two named individuals. Although the district takes no position as to whether the submitted information is excepted under the Act, you inform us release of this information may implicate the proprietary interests of R&R Properties ("R&R"). Accordingly, you state, and provide documentation showing, you notified R&R of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code § 552.305(d); see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from a representative of R&R and the two named individuals.¹ *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released). We have reviewed the submitted information.

Initially, we note a portion of the submitted information, which we marked, is not responsive to the instant request for information because it does not pertain to the specified company or individuals at issue. This ruling does not address the public availability of any information that is not responsive to the request and the district is not required to release such information in response to this request.


¹The attorney for R&R and the named individuals argues section 552.305 of the Government Code applies to his clients' information. We note section 552.305 is not an exception to disclosure under the Act. *See Gov't Code § 552.305.*

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 See Gov’t Code § 552.137(a)-(c). The e-mail address at issue is not excluded by subsection (c). Therefore, the district must withhold the personal e-mail address we marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. The district must release the remaining responsive information.

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,



Deborah Southerland
Attorney
Open Records Division

DS/gw

Ref: ID# 775365

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 2 Third Parties
(w/o enclosures)

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).