ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 29, 2005

Ms. Lisa B. Silvia
Paralegal
Fort Worth Independent School District
100 North University Drive
Fort Worth, Texas76107

OR2005-08860

Dear Ms. Silvia:

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# 232294.

The Fort Worth Independent School District (the "district") received a request for two categories of information pertaining to seven separate entities. You claim that the requested information is excepted from disclosure under section 552.137 of the Government Code. You also claim that this information is protected under a court order. Thus, we understand you to claim that the submitted information is excepted from disclosure under section 552.107(2) of the Government Code.[1] You also claim that a third party may wish to withhold this information. You have forwarded a copy of a letter from an attorney representing CME Builders & Engineers, Inc. ("CME"). *See* generally Gov't Code §§ 552.304 (providing that interested party may submit comments stating why information should or should not be released), .305 (d). We have considered the all of the submitted arguments and reviewed the submitted information.[2]

---

[1]Although you raise section 552.101, we note that section 552.107(2) is the appropriate exception in this instance.

[2]We assume that the 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 that those records contain substantially different types of information than that submitted to this office.

The district and CME assert that the requested information is excepted for disclosure because of the protective order issued on July 13,2005 by the 413th District Court in cause no. C200500038 entitled *James Blackwell vs. CME Builders & Engineers, Inc.*. Section 552.107 (2) of the Government Code excepts from required public disclosure information if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107 (2). Pursuant to our § 552.303 request the district provided us with a copy of a protective order prohibiting the release of post-accident investigative documents in the files of ACE Property & Casualty Insurance Company. However, district and CME do not argue, and it does not appear from our review, that the district is subject to the protective order. Accordingly, we find that the requested information in the district's possession is not excepted from disclosure under section 552.107 (2).

We note that section 552.136 of the Government Code is applicable to some of the submitted information.[3] This exception provides as follows:

> (a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:
>
> > (1) obtain money, goods, services, or another thing of value; or
> >
> > (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.
>
> (b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. We have marked insurance policy numbers that must be withheld under section 552.136.

Finally you claim that the e-mail communications should be excepted. 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). *See* Gov't Code § 552.137(a)-(c). Section 552.137 does not apply to a government employee's work e-mail address because such an address is not that of the employee as a "member of the public," but is instead the address of the

---

[3]Section 552.136 also is a mandatory exception to disclosure and may not be waived. Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001).

individual as a government employee. The e-mail addresses do not appear to be of a type specifically excluded by section 552.137(c). You have not informed us that the district has received consent for the release of these e-mail addresses at issue. Therefore, the district must withhold the e-mail addresses we have marked under section 552.137.

In summary, the insurance policy numbers we have marked must be withheld under section 552.136. The district must withhold the e-mail addresses we have marked under section 552.137 of the Government Code. The rest of the submitted information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

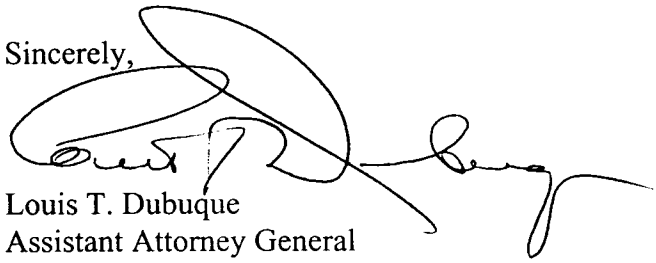
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Louis T. Dubuque
Assistant Attorney General
Open Records Division

LTD/jpa

Ref: ID# 232294

Enc. Submitted documents

c: Mr. Marc C. Lenahan
Windle Turley, P.C.
1000 Turley Law Center
6440 N. Central Expressway
Dallas, Texas 75206
(w/o enclosures)