



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 23, 2006

Ms. Cynthia Villarreal-Reyna
Section Chief, Agency Counsel
Texas Department of Insurance
P.O. Box 149104, Mail Code 110-1A
Austin, Texas 78714-9104

OR2006-06682

Dear Ms. Villarreal-Reyna:

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# 252651.

The Texas Department of Insurance (the "department") received a request for information concerning any health complaints and fines assessed against two agencies. You inform us that some of the requested information is being withheld from disclosure in accordance with a previous determination issued to the department in Open Records Letter No. 2001-4777 (2001) (identifying information regarding enrollees in health plans). *See* Open Records Decision No. 673 at 7-9 (2001) (delineating elements of second type of previous determination under Gov't Code § 552.301(a)). To the extent that other portions of the submitted information are not otherwise excepted from disclosure pursuant to the previous determination, you claim that these portions are excepted from disclosure under sections 552.136 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.136 of the Government Code provides that "[n]otwithstanding 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. The department must, therefore, withhold the account numbers it has marked under section 552.136 of the Government Code.

You contend that the e-mail address you have marked is excepted from disclosure under section 552.137 of the Government Code. Section 552.137 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). *Id.* § 552.137(a)-(c). You state that the department has not received consent to release the e-mail address you have marked. Accordingly, we agree that the department must withhold this e-mail address pursuant to section 552.137 of the Government Code.

In summary, the department may rely on our previous determination issued to the department in Open Records Letter No. 2001-4777 with respect to information addressed in that ruling. The department must withhold the marked account numbers under section 552.136 of the Government Code and the marked e-mail address under section 552.137 of the Government Code. The remaining information must be released to the requestor.

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,



Lisa V. Cubriel
Assistant Attorney General
Open Records Division

LVC/eb

Ref: ID# 252651

Enc. Submitted documents

c: Mr. Larry Sinclair
Sinclair Agency
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The Woodlands, Texas 77380
(w/o enclosures)