



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 17, 2008

Mr. Mark G. Mann  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2008-03531

Dear Mr. Mann:

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# 304641.

The Garland Police Department (the "department") received a request for a specified list obtained during a fraud investigation.<sup>1</sup> You state that you have released some of the responsive information to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by common-law privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). This office has found that personal financial information not relating to the financial transaction between an individual and a governmental body is generally intimate and embarrassing. *See* Open Records Decision No. 545 (1990). We agree that the marked credit limit information constitutes personal financial information. Further, in this instance

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<sup>1</sup>You state that the department sought and received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

we find that there is not a legitimate public interest in the release of this information. However, you have failed to demonstrate that other account information you have marked, including bank name, account type, and credit card type, constitute personal financial information. We also note that a portion of the submitted information, which we have marked for release pertains to a fictional character from the Star Trek: The Next Generation television show. Thus, common-law privacy is not applicable to this information. Accordingly, you must withhold only the marked credit limit information that we have marked under section 552.101 in conjunction with common-law privacy.

You also assert that portions of the submitted information contain account numbers and other pieces of information that are confidential under section 552.136 of the Government Code. Section 552.136 states 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(b). The department must withhold the bank account, routing numbers, and credit card expiration dates, under section 552.136 of the Government Code. However, you have not submitted any arguments explaining how the mother’s maiden names, pins, and internet log-in names and passwords you have marked constitute access device numbers. *Id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). We also conclude that section 552.136 is not applicable to the information pertaining to the fictional character. Thus, section 552.136 is not applicable to the maiden names, personal identification numbers, internet log-in names and passwords, or the information pertaining to the fictional character that we have marked for release, and they must be released to the requestor.

In summary, you must withhold the credit limit information we have marked under section 552.101 in conjunction with common-law privacy. You must withhold the bank account, routing numbers, and credit card expiration dates under section 552.136 of the Government Code. The remaining 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

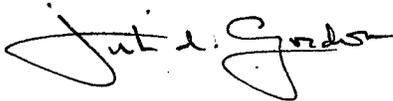
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 challenge 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,



Justin D. Gordon  
Assistant Attorney General  
Open Records Division

JDG/jh

Ref: ID# 304641

Enc. Submitted documents

c: Mr. Charles D. Netherlain  
Ms. Betty Netherlain  
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(w/o enclosures)