



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 23, 2008

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P. O. Box 9277
Corpus Christi, Texas 78469

OR2008-05367

Dear Ms. Aguilar:

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# 308036.

The City of Corpus Christi (the "city") received a request for information pertaining to the cellular telephone bills of the city's mayor and city council members. You claim that the submitted bills are excepted from disclosure under section 552.136 of the Government Code.¹ You also claim that some responsive information does not constitute public information subject to disclosure under the Act. We have considered your arguments and reviewed the submitted cellular telephone bills.

First, we address your contention that some of the requested information is not public information subject to the Act. You assert that cellular telephone bills of a particular council member do not constitute public information subject to release under the Act. The Act applies to "public information," which is defined under section 552.002 as:

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body; or

¹We note that in your letter dated February 25, 2008, you have withdrawn all your other assertions under the Act.

(2) for a governmental body and the governmental body owns the information or has a right of access to it.

Gov't Code § 552.002; *see also id.* § 552.021. You explain that this particular council member's cellular telephone charges "are listed in [his] name, are billed directly to [him], and are paid for monthly by [him]." You state further that these cellular telephone bills are never submitted to the city for reimbursement, nor does the city own or have a right of access to these documents. Based on your representations, we agree that the cellular telephone bills pertaining to the named council member are not "public information" under the Act because the bills are not collected, assembled, or maintained by or for the city. *See id.* § 552.002.

You assert that the cellular telephone bills that are subject to the Act contain information that is subject to section 552.136 of the Government Code. This section states that "[n]otwithstanding any other provision of [the Act], 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). An access device number is one that 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." *Id.* § 552.136(a). Upon review, we agree that the city must withhold the credit card and cellular telephone account numbers we have marked under section 552.136. However, you do not explain, and the information at issue does not reflect, how the remaining account numbers you have marked may be used to obtain money, goods, services, or another thing of value. *See id.* Accordingly, the city must only withhold the account numbers we have marked under section 552.136. 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 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,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 308036

Enc. Submitted documents

c: Mr. Jack Gordy
4118 Bray Drive
Corpus Christi, Texas 78413
(w/o enclosures)