



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 14, 2009

Ms. YuShan Chang
Assistant City Attorney
City of Houston
P. O. Box 368
Houston, Texas 77001-0368

OR2009-14460

Dear Ms. Chang:

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# 359282.

The City of Houston (the "city") received a request for the city's 2008-2009 payroll database. You state that some of the information will be made available to the requestor. You claim a portion of the submitted information is excepted from disclosure under section 552.136 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

First, we must address the city's obligations under the Act. We note, and you acknowledge, that the city failed to meet the deadlines prescribed by section 552.301 of the Government Code in requesting an open records decision from this office. *See* Gov't Code § 552.301(b), (d), (e). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information is public. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. Of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body demonstrates a compelling reason to withhold the information to overcome the presumption of openness pursuant to statutory predecessor to section 552.302); Open records Decision No. 319 (1982). The presumption that information is public under section 552.302 can generally be overcome

¹We assume that the representative 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.

by demonstrating that the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Section 552.136 of the Government Code can provide a compelling reason to overcome this presumption. Therefore, we will address your arguments under this exception.

Section 552.136(b) states “[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.” *Id.* § 552.136(b). You inform us an employee’s identification number is also used as an employee’s credit union bank account number. Thus, the city must withhold the information you have marked under section 552.136 of the Government Code.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James McGuire
Assistant Attorney General
Open Records Division

JM/jb

Ref: ID# 359282

Enc. Submitted documents

c: Requestor
(w/o enclosures)