



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 6, 2010

Mr. David K. Walker
County Attorney
Montgomery County
207 West Phillips, 1st Floor
Conroe, Texas 77301

OR2010-00197

Dear Mr. Walker:

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# 366420.

Montgomery County (the "county") received a request for the itemized cellular telephone bills paid by the county from July 2008 through June 2009. You claim the submitted information is exempted from disclosure under sections 552.108 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we note the submitted information, which consists of invoices for cellular telephones paid for by the county, falls within the scope of section 552.022(a)(3) of the Government Code. Section 552.022(a)(3) provides for required disclosure of "information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[,]" unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(3). Thus, the county must release the invoices under section 552.022(a)(3), unless that information is expressly confidential under other law. Although you seek to withhold portions of the submitted invoices under section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 (1977) (governmental body may waive statutory predecessor to section 552.108). As such,

¹We assume 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.

section 552.108 is not other law that makes information confidential for the purposes of section 552.022(a)(3). Therefore, the submitted invoices may not be withheld under section 552.108. However, you also claim portions of the submitted invoices are excepted from disclosure under section 552.136 of the Government Code, which does constitute other law for purposes of section 552.022. Accordingly, we will consider the applicability of this exception to the submitted invoices.

Section 552.136(b) of the Government Code provides “[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.” *Id.* § 552.136; *see also id.* § 552.136(a) (definition of “access device number” includes account numbers that may be used to obtain money, goods, or services.). We agree the account number and routing number within the submitted invoices are subject to section 552.136. We have marked a representative sample of the account number and routing number that must be withheld under section 552.136.² As no further exceptions to disclosure are raised, the remaining information must be released to the requestor.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including bank routing numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 366420

Enc. Submitted documents

c: Requestor
(w/o enclosures)