



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 3, 2010

Ms. Meridith Hayes
Abernathy, Roeder, Boyd & Joplin, PC
P.O. Box 1210
McKinney, Texas 75070-1210

OR2010-03150

Dear Ms. Hayes:

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# 371564.

The Plano Independent School District (the "district"), which you represent, received a request for five categories of information pertaining to the district's fiber optic network. You claim that portions of the submitted information are excepted from disclosure under section 552.136 of the Government Code. You also state that release of the requested information may implicate the proprietary interests of AT&T. Accordingly, you inform us, and provide documentation showing, that you notified AT&T of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

We note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information

relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any correspondence from AT&T. Thus, AT&T has not demonstrated that it has a protected proprietary interest in any of the information at issue. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Therefore, the district may not withhold any of the submitted information on the basis of any proprietary interest AT&T may have in it.

Next, section 552.136 of the Government Code 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 district must withhold the account number we have marked under section 552.136. However, the district has not explained how any of the remaining submitted information, which includes internal district account numbers, constitutes an access device number for purposes of section 552.136. Accordingly, no portion of the remaining information may be withheld on that basis.

Finally, we note a portion of the submitted information is protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990).

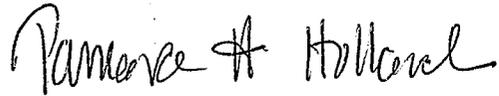
In summary, the district must withhold the account number we have marked under section 552.136 of the Government Code. The remaining information must be released to the requestor, but any copyrighted information may only be released in accordance with copyright law.

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,

A handwritten signature in cursive script that reads "Tamara H. Holland".

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/jb

Ref: ID# 371564

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Teresa Perkins
AT &T
One SBC Plaza
Dallas, Texas 75202
(w/o enclosures)