



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 14, 2010

Ms. Jenny Gravely
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
I-30 at Bryant-Irvin Road
Fort Worth, Texas 76107-4654

OR2010-06950

Dear Ms. Gravely:

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# 379402.

The City of Haltom City (the "city"), which you represent, received a request for seventeen categories of information pertaining to payments made by the city or the city's Economic Development Corporation to Flynn & Company and documents pertaining to specified parcels of land. You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.105 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note that the city has redacted portions of the submitted information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. Gov't Code §§ 552.301(a), (e)(1)(D). We note the city has redacted credit card numbers, bank account numbers, and bank account routing numbers. Redaction of these types of information is now permitted pursuant to the previous determination issued to all governmental bodies in Open Records Decision No. 684 (2009), which authorizes withholding ten categories of information, including credit card numbers, bank account numbers, and bank account routing numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision. However, the city has also redacted addresses, member numbers, reward numbers, and credit card authorization numbers under section 552.136 of

the Government Code. You do not assert, nor does our review of our records indicate, that you have been authorized to withhold this information without seeking a ruling from this office. *See* Gov't Code § 552.301(2); Open Records Decision 673 (2000). In this instance, we can discern the nature of the redacted information; thus, being deprived of that information does not inhibit our ability to make a ruling. However, in the future, the city must not redact requested information that it submits to this office in seeking an open records ruling, unless the information is the subject of a previous determination under section 552.301 of the Government Code. *See id.* §§ 552.301(e)(1)(D), .302. Failure to comply with section 552.301 may result in the information being presumed public under section 552.302 of the Government Code. *See id.* § 552.302.

We note that the submitted information is subject to section 552.022 of the Government Code. Section 552.022 provides, in relevant part, as follows:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). The submitted information consists of information related to the sale of real property and invoices for consulting services, which relate to the expenditure of public funds. Therefore, the city may only withhold this information if it is confidential under "other law." You seek to withhold the submitted information under sections 552.103 and 552.105 of the Government Code. However, sections 552.103 and 552.105 are discretionary in nature and do not constitute "other law" for purposes of section 552.022. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 564 (1990) (statutory predecessor to 552.105 subject to waiver); *see also* Open Records Decision No. 665 at 2 n.5 (discretionary exceptions generally). Thus, the submitted information may not be withheld under these exceptions. However, some of the submitted information is excepted from public disclosure under section 552.136 of the Government Code, which is "other law" for purposes of section 552.022. Thus, we will consider the applicability of this exception to the submitted information.

Section 552.136 states "[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). Section 552.136(a) defines "access device" as "a card, plate, code, account number, personal

identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). Upon review, we conclude the member numbers and rewards numbers we have marked must be withheld under section 552.136. We have also marked additional credit card numbers that the city must withhold under section 552.136. However, we find the city has failed to explain how a credit card authorization code or address constitutes an “access device” number for purposes of section 552.136. Thus, this information, which we have marked for release, may not be withheld under section 552.136.

In summary, the city must withhold the information we have marked under section 552.136. The remaining information must be released.

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,



Lauren J. Holmsley
Assistant Attorney General
Open Records Division

LJH/jb

Ref: ID# 379402

Enc. Submitted documents

c: Requestor
(w/o enclosures)