



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 30, 2010

Ms. Amy Arnold
City Secretary
City of White Settlement
214 Meadow Park Drive
White Settlement, Texas 76108

OR2010-09635

Dear Ms. Arnold:

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# 385105.

The City of White Settlement (the "city") received a request for copies of all checks made payable to five named individuals in the last five years. You state the city does not possess copies of checks, but that the city's bank statements include "a minimal sized photocopy" of checks.¹ You claim that 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.²

We note the submitted information is not specifically responsive to the instant request. The checks within the submitted bank statement are not payable to any of the five individuals named in the request. However, to the extent these checks are representative of responsive checks that existed prior to the date the city received the instant requests, we will address the applicability of your argument to the submitted information. We further note that some of the information within the submitted bank statement is not responsive to the instant request as it does not consist of copies of checks. We have marked information that is representative

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990).

²We assume that the "representative sample" of information 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.

of responsive information. We will address your exception to disclosure of the marked information. This ruling does not address the public availability of any information that is not responsive to this request, and the city is not required to release that information in response to the request.

Section 552.136 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.” *Id.* § 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 bank account number and routing number we have marked are access device numbers for purposes of section 552.136. Thus, the city must withhold the this marked information under section 552.136 of the Government Code.³ As you raise no further exceptions to disclosure, the remaining responsive 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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

³We note this office recently issued Open Records Decision No. 684 (2009), a previous determination authorizing all governmental bodies to withhold ten categories of information including a bank account number and routing number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 385105

Enc. Submitted documents

c: Requestor
(w/o enclosures)