



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 22, 2010

Ms. Cynthia Villarreal-Reyna  
Section Chief, Agency Counsel  
Legal and Regulatory Affairs, MC 110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2010-11002

Dear Ms. Villarreal-Reyna:

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# 387608 (TDI# 103904).

The Texas Department of Insurance (the "department") received a request for two specified complaints. You state you will release some information to the requestor. Although you take no position with respect to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of a third party. You inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, the department notified Aviva Life and Annuity Co. ("Aviva") of the request and of its right to submit arguments to this office explaining why the submitted 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 reviewed the submitted information.

Initially, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Aviva has not submitted any comments to this office explaining how release of the information at issue

would affect its proprietary interests. Accordingly, none of the information at issue may be withheld on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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).

Next, we note a portion of the submitted information is subject to section 552.136 of the Government Code.<sup>1</sup> 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); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. Accordingly, the department must withhold the bank account and routing numbers and the insurance policy numbers we have marked under section 552.136 of the Government Code.

We further note a portion of the remaining information is subject to section 552.137 of the Government Code, which excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). The e-mail addresses in the remaining information are not specifically excluded by section 552.137(c). As such, these e-mail addresses, which we have marked, must be withheld under section 552.137, unless the owner of the addresses has affirmatively consented to their release. *See id.* § 552.137(b).

In summary, the department must withhold the bank account and routing numbers and the insurance policy numbers we have marked under section 552.136 of the Government Code. The department must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owner of the addresses has affirmatively consented to

---

<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ms. Cynthia Villarreal-Reyna - Page 3

their release.<sup>2</sup> As the department raises no exceptions to disclosure of the remaining information, it must be released.<sup>3</sup>

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](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,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/em

Ref: ID# 387608

Enc. Submitted documents

---

<sup>2</sup>We 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 an insurance policy number, bank account number, and bank routing number under section 552.136 of the Government Code and an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>3</sup>We note the information being released includes a social security number. Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552:147(b).

Ms. Cynthia Villarreal-Reyna - Page 4

c: Requestor  
(w/o enclosures)

CT Corporation System  
For Aviva Life and Annuity Company  
350 North St. Paul Street  
Dallas, Texas 75201  
(w/o enclosures)

Mr. Thomas Godlasky  
Aviva Life and Annuity  
P.O. Box 1555  
611 5<sup>th</sup> Avenue  
Des Moines, Iowa 50306  
(w/o enclosures)