



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 20, 2010

Mr. Bradford E. Bullock
McKamie Krueger, LLP
941 Proton Road
San Antonio, Texas 78258

OR2010-14196

Dear Mr. Bullock:

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# 395063.

The City of Hondo (the "city"), which you represent, received a request for 1) "copies of credit card files used [to] determine [the] amount of abuse" and 2) "copies of all credit card billings for all 2008 [and] 2009." You claim some of 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 information.¹

Initially, you inform us the city asked the requestor to clarify category one of his request. We note that a governmental body may communicate with a requestor for the purpose of clarifying or narrowing a request for information. *See* Gov't Code § 552.222(b). However, a governmental body must make a good faith effort to relate a request for information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). In this instance, we assume the city has made a good faith effort to relate the request to information in the city's possession. You state the city has not received a response to its request for

¹We assume that 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.

clarification. Accordingly, we find the city has no obligation at this time to release any information that may be responsive to the first category of information for which it has not received clarification. However, if the requestor responds to the request for clarification, the city must seek a ruling from this office before withholding any responsive information from the requestor.

Next, we note some of the submitted information is not responsive to the second category of the request as it does not consist of credit card billing statements. This decision does not address the public availability of the non-responsive information, and that information need not be released in response to the present request.

We also note you have redacted a portion of the responsive 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. *See* Gov't Code § 552.301(a), (e)(1)(D). You do not assert, nor does our review of the records indicate, that you have been authorized to withhold the redacted information without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). As such, the information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. 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. In the future, however, the city should refrain from redacting any information that it submits to this office in seeking an open records ruling. Failure to do so may result in the presumption that the redacted information is public. *See* Gov't Code § 552.302.

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.” *Id.* § 552.136(b); *see id.* § 552.136(a)(defining “access device”). Accordingly, the city must withhold the information we have marked under section 552.136 of the Government Code.² 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.

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 credit card account numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 395063

Enc. Submitted documents

cc: Requestor
(w/o enclosures)