



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 25, 2010

Mr. David Daughterty
Assistant County Attorney
County of Harris
1019 Congress, 15th Floor
Houston, Texas 77002

OR2010-16127

Dear Mr. Daughterty:

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# 397824 (CA File # 10GEN1519).

The Harris County Bail Bond Board (the "board") received a request for all documents relating to the financial status of bail bond companies owned by either of two named individuals during a specified time period. You state the board does not possess any documents relating to one of the named individuals.¹ Although you take no position with respect to the public availability of the requested information, you state release of this information may implicate the proprietary interests of the other named individual. You inform us, and provide documentation showing, pursuant to section 552.305 of the Government Code, the board has notified the interested individual of the request and of his right to submit arguments to this office explaining why his 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 statutory predecessor to section 552.305

¹We note the Act does not require a governmental body to release information that did not exist when it received a request or to create responsive information. *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), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

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 his 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, the individual whose information is at issue has not submitted any comments to this office explaining how release of the submitted information would affect his proprietary interests. Accordingly, none of the information at issue may be withheld on the basis of the proprietary interests of this individual. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise claiming 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 information is trade secret).

Next, we note a portion of the submitted information is subject to section 552.136 of the Government Code.² 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 board must withhold the bank account numbers and insurance policy numbers we have marked under section 552.136 of the Government Code.³ As you raise no arguments against disclosure, the board must release the remaining information.

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

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³We 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 a bank account number and an insurance policy number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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 black ink, appearing to read "Mack T. Harrison". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 397824

Enc. Submitted documents

c: Requestor
(w/o enclosures)