



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 21, 2011

Mr. Robert Russo
Walsh, Anderson, Brown, Gallegos, and Green, P.C.
P.O. Box 460606
San Antonio, Texas 78246

OR2011-18840

Dear Mr. Russo:

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# 439843.

The La Vernia Independent School District (the "district"), which you represent, received four requests from the same requestor for information pertaining to the financial activity of the La Vernia Junior High library fund, National Junior Honor Society, art fund, and yearbook statements for a specified period of time. You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note the submitted information consists purchase orders, checks, receipts, deposit records, and other information subject to section 552.022(a)(3) of the Government Code, which provides that "information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body" is subject to required public disclosure unless it is made confidential under this chapter or "other law." *See* Gov't Code § 552.022(a)(3). Although you raise section 552.108 of the Government Code for this information, this section is a discretionary exception to disclosure and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). Therefore, you may not withhold the submitted information

under section 552.108. However, we will address your argument under section 552.136 of the Government Code, which does make information confidential under the Act.

You state the district will redact a bank account number pursuant to the previous determination issued by this office in Open Records Decision No. 684 (2009). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including credit card, debit card, bank account, and bank routing numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision. However, as of September 1, 2011, the Texas legislature amended section 552.136 to allow a governmental body to redact the information described in subsections 552.136(a) and (b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). Thus, the statutory amendments to section 552.136 of the Government Code superceded Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may only redact information subject to subsections 552.136(a) and (b) in accordance with section 552.136, not Open Records Decision No. 684. Section 552.136 provides “[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. Accordingly, the district must withhold the bank account numbers you have marked, as well as the additional credit card, debit card, bank account, and bank routing numbers we have marked, under section 552.136.

Finally, some of the remaining information appears to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the district must withhold the bank account numbers you have marked, as well as the additional credit card, debit card, bank account, and bank routing numbers we have marked, under section 552.136. The district must release the remaining information, but any information protected by copyright may only be released in accordance with copyright law.

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,

A handwritten signature in black ink, appearing to read "Sarah Casterline", with a large, stylized circular flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/ag

Ref: ID# 439843

Enc. Submitted documents

c: Requestor
(w/o enclosures)