



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 9, 2012

Ms. LeAnne Lundy  
Counsel for the Klein Independent School District  
Rogers, Morris & Grover, L.L.P.  
5718 Westheimer Road, Suite 1200  
Houston, Texas 77057

OR2012-18072

Dear Ms. Lundy:

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# 470501.

The Klein Independent School District (the "district"), which you represent, received a request for certain contracts regarding any electrical, lighting, installation, or wiring in the gym of Nitsch Elementary School and all documentation concerning the work. You state the district will release most of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential. Section 101.104 of the Texas Civil Practice and Remedies Code provides:

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<sup>1</sup>We assume 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.

(a) Neither the existence nor the amount of insurance held by a governmental unit is admissible in the trial of a suit under [the Texas Tort Claims Act].

(b) Neither the existence nor the amount of the insurance is subject to discovery.

Civ. Prac. & Rem. Code § 101.104. Section 101.104 prohibits the discovery and admission of insurance information during a trial under the Texas Tort Claims Act, chapter 101 of the Civil Practice and Remedies Code. *See City of Bedford v. Schattman*, 776 S.W.2d 812, 813-14 (Tex. App.—Fort Worth 1989, orig. proceeding) (protection from producing evidence of insurance coverage under section 101.104 is limited to actions brought under the Tort Claims Act). However, section 101.104 does not make insurance information confidential for purposes of section 552.101 of the Government Code. *See Open Records Decision No. 551 at 3 (1990)* (provisions of section 101.104 “are not relevant to the availability of the information to the public”). The Act differs in purpose from statutes and procedural rules providing for discovery in judicial proceedings. *See Gov’t Code §§ 552.005 (Act does not affect scope of civil discovery), .006 (Act does not authorize withholding public information or limit availability of public information to public except as expressly provided by the Act); see also Attorney General Opinion JM-1048 (1989); Open Records Decision No. 575 (1990) (overruled in part by Open Records Decision No. 647 (1996)) (section 552.101 does not encompass discovery privileges)*. Thus, we find section 101.104 of the Civil Practice and Remedies Code does not make the information at issue confidential for purposes of section 552.101 of the Government Code. Therefore, the district may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 101.104 of the Civil Practice and Remedies Code.

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], 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. *See id.* § 552.136(a) (defining “access device”). Accordingly, the district must withhold the insurance policy numbers you have marked under section 552.136 of the Government Code. As you raise no further exceptions to disclosure, the remaining 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](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 cursive script, appearing to read "Jennifer Burnett", with a horizontal line extending to the right.

Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/tch

Ref: ID# 470501

Enc. Submitted documents

c: Requestor  
(w/o enclosures)