



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 28, 2013

Mr. Paul Fletcher
Assistant City Attorney for City of Eagle Pass
Langley & Banack
745 East Mulberry, Suite 900
San Antonio, Texas 78212-3166

OR2013-05050

Dear Mr. Fletcher:

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# 482594 (City Records Request No. 2013-001).

The City of Eagle Pass (the "city"), which you represent, received a request for copies of the last three years of taxes paid for the Holly Inn Motel ("Holly Inn"). You claim portions of the submitted information are excepted from disclosure under section 552.136 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Holly Inn. Accordingly, you state, and provide documentation showing, you notified Holly Inn of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

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 information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Holly Inn explaining why the submitted information should not be released. Therefore, we have no basis to conclude Holly Inn has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent

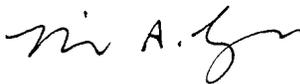
disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest Holly Inn may have in the information.

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). Section 552.136 defines “access device” as “a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, good, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). Upon review, we find the city must withhold the routing and bank account numbers we have marked under section 552.136 of the Government Code. However, you have not explained how the marked GL account numbers are access device numbers for the purposes of section 552.136. Thus, the city may not withhold the marked GL account numbers under section 552.136 of the Government Code. As no other exceptions are raised, 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, 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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/ac

Ref: ID# 482594

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Holly Inn
2423 East Main Street
Eagle Pass, Texas 78852
(w/o enclosures)