



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 18, 2013

Mr. Warren M. S. Ernst
Chief of the General Counsel Division
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2013-06348

Dear Mr. Ernst:

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# 484409 (City Request No. 13-00048358).

The City of Dallas (the "city") received a request for information related to RFCSP Number BHZ1217. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of certain third parties. You state you have notified the third parties of this request and of the companies' rights to submit arguments to this office stating why their information should not be released.¹ *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 reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of a governmental body's notice under section 552.305(d) of the Government Code to submit its 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, we have not received comments from any of the third parties. Thus, we have no basis to conclude the

¹The interested third parties are: Acquient Systems Technologies; Avrio RMS Group; DMI Technologies, Inc.; ESI Companies, Inc.; Iron Sky, Inc.; Motorola, Inc.; and VisualPro 260.

release of any portion of the information at issue would implicate any of the third parties' proprietary interests, and none of the information may be withheld on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims 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 that information is trade secret).

We note some of the submitted information is subject to sections 552.130 and 552.136 of the Government Code.² Section 552.130 of the Government Code excepts from disclosure "information [that] relates to . . . a motor vehicle title or registration issued by an agency of this state or another state or country[.]" *See Gov't Code* § 552.130(a)(2). The submitted information contains motor vehicle record information, which we have marked. However, we are unable to determine whether some of the marked information constitutes real motor vehicle record information. Thus, to the extent information we have marked constitutes real motor vehicle record information, the city must withhold the information we have marked, as well as any real, discernible license plate numbers in the submitted information, under section 552.130 of the Government Code.

Section 552.136 of the Government Code states "[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." *Id.* § 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. Therefore, the city must withhold insurance policy numbers we have marked under section 552.136 of the Government Code.

We note some of the remaining information may 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 city must withhold the information we have marked under sections 552.130 and 552.136 of the Government Code. The city must release the remaining information, but

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

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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 484409

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)

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