



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 8, 2013

Mr. Michael Spurlock  
Legal Counsel  
Housing Authority of the City of El Paso  
P.O. Box 9895  
El Paso, Texas 79995-2895

OR2013-07578

Dear Mr. Spurlock:

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# 487500.

The Housing Authority of the City of El Paso (the "authority") received a request for specified information pertaining to the last three awardees of the authority's "make ready projects." You inform us the authority has released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you inform us the release of this information may implicate the proprietary interests of Mirador Enterprises, Inc. ("Mirador"). Accordingly, you notified Mirador 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 Act in certain circumstances). We have reviewed the submitted information.

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 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, Mirador has not submitted comments to this office explaining why the submitted information should not be released. Therefore, we have no basis to conclude Mirador has a protected proprietary interest in this 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 authority may not withhold any portion of the submitted information based upon the proprietary interests of Mirador.

We note portions of the submitted information are subject to section 552.136 of the Government Code.<sup>1</sup> This section 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). An access device number is one that may be used to (1) obtain money, goods, services, or another thing of value, or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument, and includes an account number. *See id* § 552.136(a). The submitted information contains partial bank account numbers. This office has determined that bank account numbers are access device numbers for purposes of section 552.136. Accordingly, the authority must withhold the partial bank account numbers we have marked under section 552.136 of the Government Code. As no further exceptions to disclosure are raised for the remaining information, the authority must release it.

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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/bhf

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<sup>1</sup>The 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).

Ref: ID# 487500

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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President  
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(w/o enclosures)