



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 12, 2013

Ms. H. Karen Fastenau
General Counsel
Texas Veteran's Commission
P.O. Box 12277
Austin, Texas 78711-2277

OR2013-11906

Dear Ms. Fastenau:

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# 493410.

The Texas Veteran's Commission (the "commission") received a request for (1) any information pertaining to the commission's approval of The Ocean Corporation ("Ocean") as an educational institution that may accept GI Bill funds, and (2) the policies and procedures for obtaining the commission's approval and accreditation of an educational institution that may accept GI Bill funds. You inform us you have released some of the requested information. Although you take no position on the public availability of the requested information, you state the requested information may implicate the proprietary interests of Ocean. Accordingly, you inform us, and provide documentation showing, you notified Ocean of the request and of the company's right to submit comments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the 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, we have not received comments from Ocean on why the company's submitted information should not be released. Therefore, we have no basis to conclude Ocean has any protected proprietary interests 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 commission may not withhold any portion of the submitted information on the basis of any proprietary interest Ocean may have in it.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the owner of the e-mail address consents to its release or the e-mail address falls within the scope of section 552.137(c).¹ See Gov’t Code § 552.137(a)-(c). Section 552.137 is not applicable to the work e-mail address of an employee of a governmental body because such an address is not that of the employee as a “member of the public” but is instead the address of the individual as a government employee. The commission must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure.² 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

¹The 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).

²We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general opinion.

Ref: ID# 493410

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. John S. Wood
President
The Ocean Corporation
10840 Rockley Road
Houston, Texas 77099
(w/o enclosures)