ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 23, 2014

Mr. Michael B. Gary
Legal Counsel
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975

OR2014-01382

Dear Mr. Gary:

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# 512065 (ORR No. 13-2608).

The Harris County Appraisal District (the "district") received a request for a specified iFile number. You claim the responsive information is excepted from disclosure under section 552.136 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note, with the exception of the iFile number at issue, the submitted information is not responsive to the instant request for information because it does not consist of the specified iFile number. This ruling does not address the public availability of non-responsive information, and the district is not required to release non-responsive information in response to this request.

Next, we note, and you acknowledge, the district did not comply with section 552.301(b) of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). We note the district also failed to comply with its fifteen-day deadline under section 552.301(e). *See id.* § 552.301(e). A governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption the requested information is public and must be released unless a governmental body demonstrates a compelling reason to withhold information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350

(Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). This statutory presumption can generally be overcome when information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Section 552.136 of the Government Code can provide a compelling reason to overcome the presumption of openness. Therefore, we will address the applicability of section 552.136 for the responsive information.

Section 552.136 of the Government Code states "[n]otwithstanding any other provision of this chapter, 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(a) 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, goods, 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). You state the iFile number at issue can be used to access confidential property information that is valuable to property owners and third party professionals involved in the protests of property tax appraisals. Based on your representations and our review, we agree the iFile number at issue is an access device number for purposes of section 552.136(a). We note section 552.136 protects privacy interests. In this instance, the requestor may be the individual whose information is at issue. If so, the requestor has a right of access to the this information pursuant to section 552.023 of the Government Code. *See generally id.* § 552.023; *see* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, if the requestor is the individual whose information is at issue, then the district may not withhold the responsive information from this requestor under section 552.136. If the requestor is not that individual, then the district must withhold the responsive information under section 552.136.

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,

Cynthia G. Tynan

Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 512065

Enc. Submitted documents

c: Requestor
(w/o enclosures)