



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 27, 2014

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

OR2014-01576

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# 512063 (ORR# 13-00331).

The Harris County Appraisal District (the "district") received a request for the 2013 Notices of Appraisal for four specified accounts. You state you will release some of the requested information and only seek to withhold the submitted iFile account numbers. You claim this information is excepted from disclosure under sections 552.101, 552.136, and 552.149 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state the district has not complied with the time periods prescribed by section 552.301 of the Government Code in seeking an open records decision from this office. Gov't Code § 552.301. When a governmental body fails to comply with the procedural requirements of section 552.301, the information at issue is presumed public and must be released unless there is a compelling reason to withhold it. *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, 381-82 (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); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by a showing the information is made confidential by another

source of law or affects third party interests. *See* Open Records Decision No. 150 at 2 (1977). Because the exceptions you raise can provide compelling reasons to overcome this presumption, we will address the applicability of these sections to the submitted information.

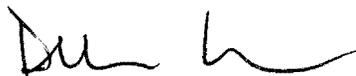
Section 552.136 of the Government Code states “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b). Section 552.136(a) 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 represent the requested iFile numbers 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 numbers at issue are access device numbers for purposes of section 552.136(a). Accordingly, the district must generally withhold the iFile numbers, which you have marked, under section 552.136(b) of the Government Code. However, we note the requestor may be the authorized representative of the owners of the requested iFile numbers. Thus, this requestor may have a right of access to the requested information that would otherwise be confidential under section 552.136. *See id.* § 552.023(a) (“[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to person to whom information relates or person’s authorized representative on grounds that information is considered confidential by privacy principles). Accordingly, we must rule conditionally. If the requestor is the authorized representative of the owners of the requested iFile numbers, the district may not withhold the iFile numbers from this requestor under section 552.136 and they must be released pursuant to section 552.023 of the Government Code. If the requestor is not the authorized representative of the owners of the requested iFile numbers, you must withhold the requested iFile numbers under section 552.136 of the Government Code.¹

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.

¹Because our ruling under section 552.136 is dispositive, we do not address the other claimed exceptions.

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,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/sdk

Ref: ID# 512063

Enc. Submitted documents

c: Requestor
(w/o enclosures)