



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 21, 2014

Ms. Eileen M. Hayman  
Counsel for the City of Hamlin  
Messer, Rockefeller & Fort, PLLC  
4400 Buffalo Gap Road, Suite 2800  
Abilene, Texas 79606

OR2014-04812

Dear Ms. Hayman:

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# 517788.

The City of Hamlin (the "city"), which you represent, received a request for "[a] copy of the current billing from the company which services the refuse/trash service for the City of Hamlin." You claim the requested information is excepted from disclosure under section 552.110 of the Government Code. You also state the requested information may implicate the proprietary interests of a third party. Accordingly, you inform us, and provide documentation showing, you notified Allied Waste Services ("Allied") of the request for information and of its right to submit arguments 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) (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 considered the exception you claim and reviewed the submitted information.

You raise section 552.110 of the Government Code for the submitted information. We note, however, section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we will not consider your arguments under section 552.110, and the submitted information may be withheld under section 552.110 based only on arguments from Allied. 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 Allied explaining why its submitted information should not be released. Therefore, we have no basis to conclude Allied has protected proprietary interests in the 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. Consequently, the city may not withhold the submitted information on the basis of any proprietary interests Allied may have in the information.

Section 552.136 of the Government Code states that “[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.”<sup>1</sup> 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.” *Id.* § 552.136(a). Upon review, we find the utility account numbers we have marked constitute access device numbers for purposes of section 552.136. Thus, the city must withhold the account numbers we have marked under section 552.136 of the Government Code.

In summary, the city must withhold the account numbers we have marked under section 552.136 of the Government Code. 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/>

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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).

[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,

A handwritten signature in black ink, appearing to read 'Cristian Rosas-Grillet', written in a cursive style.

Cristian Rosas-Grillet  
Assistant Attorney General  
Open Records Division

CRG/eb

Ref: ID# 517788

Enc. Submitted documents

c: Requestor  
(w/o enclosures)