



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 26, 2014

Ms. Catelyn H. Kostbar
Administrative Technician III
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975

OR2014-10952

Dear Ms. Kostbar:

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# 527015 (HCAD Reference No. 14-1778).

The Harris County Appraisal District (the "district") received a request for information pertaining to a named individual and specified address. The district states it will provide some of the requested information to the requestor, but claims some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. The district also states, and provides documentation showing, it notified Facet Technology Corporation ("Facet") of the district's receipt of the request for information and of Facet's right to submit arguments to this office as to why the requested information should not be released. *See Gov't Code* § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 claimed exceptions and reviewed the submitted representative sample of information.¹

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office. You also acknowledge, and we agree, the district did not comply with the requirements of section 552.301 of the Government Code. *See Gov't Code* § 552.301(b), (e). Nonetheless, sections 552.101, 552.130, and 552.136 of the Government Code and the interests of third parties can provide compelling reasons to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider whether the submitted information must be withheld under the Act on those grounds.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses section 11.48(a) of the Tax Code, which reads as follows:

A driver’s license number, personal identification certificate number, or social security account number provided in an application for an exemption filed with a chief appraiser is confidential and not open to public inspection. The information may not be disclosed to anyone other than an employee of the appraisal office who appraises property, except as authorized by Subsection (b).

Tax. Code § 11.48(a). The submitted information includes applications for an exemption that contain driver’s license and social security numbers. *See id.* You do not indicate, and it does not appear to this office, the release provisions of section 11.48(b) apply. *See id.* § 11.48(b). Thus, the district must withhold the driver’s license and social security numbers we have marked under section 552.101 of the Government Code in conjunction with section 11.48(a) of the Tax Code.²

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See Gov’t Code § 552.130.* However, section 552.130 is designed to protect the privacy of individuals, and the right to privacy expires at death. *See Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref’d n.r.e.); Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). The district must withhold the motor vehicle record information of a living individual we have marked in the remaining information under section 552.130. However, the remaining information does not consist of motor vehicle record information pertaining to a living individual. Thus, the district may not withhold the remaining information under section 552.130.

Section 552.136 of the Government Code provides in part the following:

(a) In this section, “access device” means 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:

(1) obtain money, goods, services, or another thing of value; or

²As our ruling is dispositive, we do not address your other argument to withhold this information.

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding 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(a)-(b). You represent the submitted iFile numbers can be used to access confidential property information. You state this confidential property information 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 constitute access device numbers for purposes of section 552.136(a). Accordingly, the district must withhold the iFile numbers we have marked under section 552.136(b) of the Government Code. However, we find you have failed to demonstrate the applicability of section 552.136 to any of the remaining information, and the district may not withhold it on that ground.

Finally, 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 requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Facet has not submitted to this office any reasons explaining why the requested information should not be released. Thus, we have no basis for concluding any portion of the submitted information constitutes proprietary information of that third party, and the district may not withhold any portion of the submitted information on that basis. *See* 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.

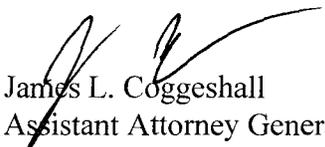
To conclude, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 11.48(a) of the Tax Code. The district must withhold the information we have marked under sections 552.130 and 552.136(b) of the Government Code. The district must release the remaining information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 527015

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)