ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 9, 2014

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

OR2014-15874

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# 535767 (HCAD internal reference no. 14-2678).

The Harris County Appraisal District (the "district") received a request for the iFile number pertaining to district account number 114-568-028-0027. You claim the requested 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, and you acknowledge, the district has not complied with the procedural requirements of section 552.301 of the Governmental Code in requesting this ruling. *See* Gov't Code § 552.301(b), (e). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information is public and must be released, unless the governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (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. 319 (1982). This office has held that a compelling reason exists to withhold information when the information is confidential by law or affects third party interests. *See* Open Records Decision No. 150 (1977). Because

section 552.136 of the Government Code can provide a compelling reason to withhold information, we will consider your argument regarding this exception.

Next, we note the request is only for the iFile number pertaining to the specified account. Accordingly, only the iFile number in the submitted information is responsive to the request for information and the remaining information is not responsive to the request. The district need not release nonresponsive information in response to this request, and this ruling will not address that 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 submitted iFile number 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 submitted iFile number is an access device number for purposes of section 552.136(a). Accordingly, the district must generally withhold the submitted iFile number under section 552.136(b) of the Government Code.

However, the requestor may be the property owner whose access device number is at issue. The owner of the access device number has a right of access to her own access device number under section 552.023 of the Government Code and it may not be withheld under section 552.136. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, if the requestor is the property owner whose access device number is at issue, then the submitted iFile number must be released to her. However, if the requestor is not the property owner whose access device number is at issue, the district must withhold the submitted iFile number under section 552.136 of the Government Code.

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,

Jennifer Luttrall

Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/akg

Ref: ID# 535767

Enc. Submitted documents

c: Requestor
(w/o enclosures)