



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 13, 2016

Mr. Charles Horton
Executive Director
Texas Board of Professional Geoscientists
P.O. Box 13225
Austin, Texas 78711

OR2016-20598

Dear Mr. Horton:

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# 626486.

The Texas Board of Professional Geoscientists (the "board") received a request for information pertaining to three named individuals. You claim some of the submitted information is excepted from disclosure under section 552.137 of the Government Code. You also state release of the information at issue may implicate the proprietary interests of one of the named individuals. Accordingly, you state and provide documentation showing that you notified the third party of its 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 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from the notified named individual. Thus, we have no basis to conclude this individual has a protected proprietary interest in the submitted information. *See id.* § 552.110(a)-(b); 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. Accordingly, the board may not withhold the submitted information on the basis of any proprietary interest the individual at issue may have in the information. However, we will consider your argument under section 552.137 of the Government Code for the submitted information.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c). Section 552.137 does not apply to an institutional e-mail address or an e-mail address provided to a governmental body on a letterhead. *See id.* § 552.137(c). We note one of the e-mail addresses the board seeks to withhold was provided to the board on a letterhead. Therefore, the board may not withhold this information, which we have marked for release, under section 552.137. *See id.* However, the remaining e-mail addresses at issue do not appear to be of a type specifically excluded by section 552.137(c). Therefore, with the exception of the information we marked for release, the board must withhold the remaining e-mail addresses you have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure.

We note some of the remaining information is subject to section 552.136 of the Government Code.¹ 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.” *Id.* § 552.136(b); *see also id.* § 552.136(a) (defining “access device”). Accordingly, we find the board must withhold the credit card and checking account numbers we have marked under section 552.136 of the Government Code.

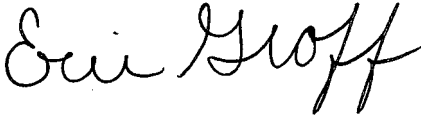
In summary, with the exception of the e-mail address we have marked for release, the board must withhold the personal e-mail addresses you have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure. The board must withhold the credit card and checking 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.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in cursive script that reads "Erin Groff".

Erin Groff
Assistant Attorney General
Open Records Division

EMB/akg

Ref: ID# 626486

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)