



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 17, 2017

Mr. Brad Bowman
General Counsel
Texas Department of Licensing and Regulation
P.O. Box 12157
Austin, Texas 78711

OR2017-03710

Dear Mr. Bowman:

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# 646578 (PIR# 20170220).

The Texas Department of Licensing and Regulation (the "department") received a request for all forms and rates filed with the department by a named entity during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.110 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of ARAG Services, LLC ("ARAG"). Accordingly, you state, and provide documentation showing, you notified ARAG of the request for information and of its right to submit arguments to this office as to why the information at issue 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 in the Act in certain circumstances). We have considered the exceptions you claim and reviewed the submitted information.

Section 953.054 of the Occupations Code provides information concerning the number of legal service contracts sold by a company submitted to the department under section 953.053 "is a trade secret to which [s]ection 552.110, Government Code, applies." Occ. Code § 953.054. Section 552.110(a) of the Government Code excepts from disclosure trade secrets obtained from a person and privileged or confidential by statute or judicial decision. Gov't Code § 552.110(a). Exhibits 2 and 3 pertain to the registration of ARAG as a legal

service contract company for purposes of chapter 953 of the Occupations Code. The department represents the submitted renewal information was provided to the department pursuant to section 953.053 of the Occupations Code, and that the highlighted information in the information at issue consists of the number of legal service contracts sold by ARAG, or the amounts of registration fees paid by ARAG. We understand these registration fees indirectly reveal the number of legal service contracts sold by ARAG. *See* Occ. Code § 953.053 (company's annual registration fee based on either number of legal service contracts company sold or amount company collects for legal service contracts sold). Based on these representations and our review, we agree the highlighted information in Exhibits 2 and 3 concerns the number of legal service contracts sold by a company, and thus consists of trade secrets for the purposes of section 552.110(a). Thus, the department must withhold the highlighted information in the information at issue under section 552.110(a) of the Government Code. Although the department also raises section 552.110 for portions of the remaining information that do not concern the number of legal service contracts sold by a company submitted to the department under section 953.053, we note section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. *See* Gov't Code § 552.110. Thus, we will not consider the department's argument under section 552.110 for the remaining information.

Additionally, 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) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from ARAG explaining why the remaining information should not be released. Therefore, we have no basis to conclude ARAG has a protected proprietary interest in the remaining 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. Accordingly, the department may not withhold any portion of the remaining information related to ARAG on the basis of any proprietary interest it may have in the information.

We note the remaining information contains bank account, routing, and insurance policy numbers. Section 552.136(b) of the Government Code states “[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.”¹ *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). Thus, the department must withhold the

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

submitted bank account, routing, and insurance policy numbers under section 552.136 of the Government Code.

In summary, the department must withhold the highlighted information in Exhibits 2 and 3 under section 552.110(a) of the Government Code. The department must withhold the submitted bank account, routing, and insurance policy numbers under section 552.136 of the Government Code. The department 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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/bw

Ref: ID# 646315

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)