



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 21, 2017

Ms. Barbara J. Fox
Assistant County Attorney
Chambers County
P.O. Box 1200
Anahuac, Texas 77514

OR2017-18973

Dear Ms. Fox:

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# 672363.

Chambers County (the "county") received a request for (1) the audio tape of a specified meeting, (2) documents given by the Chambers County Tax Assessor at a specified meeting, and (3) a specified proposal. You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Linebarger, Goggan, Blair, and Sampson LLP. ("LGBS"). Accordingly, you state, and provide documentation showing, you notified this third party of the request and its right to submit arguments to this office.¹ *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 reviewed the submitted information.

¹We note, and you acknowledge the county did not comply with the requirements of section 552.301(b) of the Government Code in providing some of the information at issue. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.110 of the Government Code and third-party interests can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

Section 552.110 of the Government Code protects (1) trade secrets, and (2) commercial or financial information the disclosure of which would cause substantial competitive harm to the person from whom the information was obtained. *See* Gov't Code § 552.110(a)-(b). Although you argue the submitted information is excepted under section 552.110, that exception is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the county's argument under section 552.110.

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 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 LGBS explaining why the submitted information should not be released. Therefore, we have no basis to conclude LGBS has a protected proprietary interest in the submitted 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 party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the county may not withhold the submitted information on the basis of any proprietary interests LGBS may have in the information.

Section 552.136(b) of the Government Code provides, "[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."² Gov't Code § 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. Accordingly, the county must withhold the insurance policy numbers we marked in the submitted information 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_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

²The 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).

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 that reads "Patrick P. Mehaffy". The signature is written in a cursive, flowing style with a long horizontal stroke extending to the right.

Patrick P. Mehaffy
Attorney
Open Records Division

PPM/eb

Ref: ID# 672363

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)