



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 29, 2017

Ms. Erin D. Thorn
Assistant District Attorney
Hidalgo County Criminal District Attorney's Office
100 East Cano Street
Edinburg, Texas 78539

OR2017-27076

Dear Ms. Thorn:

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# 686301 (File No. 2017-0104-DA.CO).

The Hidalgo County Public Affairs Office (the "county") received a request for the mileage rates payable to county employees during certain years and information pertaining to the compensation of a named attorney regarding a specified case. You claim the submitted information is excepted from disclosure under section 552.107(2) of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we note the county has not submitted information responsive to the request for the mileage rates payable to county employees. To the extent any information responsive to this portion of the request existed on the date the county received the request, we assume the county has released it. If the county has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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.

Next, we note some of the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

...

(16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege; [and]

(17) information that is also contained in a public court record[.]

Gov't Code § 552.022(a)(3), (16), (17). The submitted information includes information in an account, voucher, or contract relating to the expenditure of public funds that is subject to section 552.022(a)(3), attorney fee bills that are subject to section 552.022(a)(16), and a court-filed document that is subject to section 552.022(a)(17). This information, which we marked, must be released unless it is made confidential under the Act or other law. *See id.* § 552.022(a)(3), (16), (17). You seek to withhold the information at issue under section 552.107(2) of the Government Code. Section 552.107(2) allows a governmental body to withhold information if "a court by order has prohibited disclosure of the information." *Id.* § 552.107(2). However, section 552.022(b) provides that a court may not order a governmental body to withhold from public inspection any category of information described by section (a) unless the category of information is expressly made confidential under the Act or other law. *Id.* § 552.022(b). Because section 552.022(b) prohibits a court from ordering the withholding of documents subject to section 552.022, we conclude the county may not withhold the information subject to section 552.022 under section 552.107(2). However, because section 552.136 of the Government Code makes information confidential under the Act, we will address its applicability to the information subject to section 552.022.² Further, we will consider your argument under section 552.107(2) of the Government Code for the information not subject to section 552.022.

² The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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.” Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Upon review, we find the county must withhold the account number we marked in the information subject to section 552.022(a)(3) under section 552.136 of the Government Code.

As noted above, section 552.107(2) provides information is excepted from disclosure if “a court by order has prohibited disclosure of the information.” *Id.* § 552.107(2). You state, and provide documentation supporting, the presiding judge of the 332nd Judicial District Court of Hidalgo County issued an order (the “court order”) sealing records regarding the payment of certain fees and expenses related to the specified case. You state the submitted information not subject to section 552.022 relates to the payment of certain fees and expenses. You assert this information is sealed pursuant to the court order. Upon review, we agree a court, by order, has prohibited disclosure of the information at issue. Accordingly, the county must withhold the submitted information not subject to section 552.022 under section 552.107(2) of the Government Code.

In summary, the county must release the information we marked pursuant to section 552.022 of the Government Code. In releasing the information subject to section 552.022, the county must withhold the account number we marked under section 552.136 of the Government Code. The county must withhold the remaining information under section 552.107(2) 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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/sb

Ref: ID# 686301

Enc. Submitted documents

c: Requestor
(w/o enclosures)