



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 13, 2018

Mr. Laurence E. Boyd  
Counsel for the City of Danbury  
Laurence E. Boyd Attorney at Law  
P.O. Box 269  
Angleton, Texas 77516-0269

OR2018-03446

Dear Mr. Boyd:

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# 695699.

The City of Danbury (the "city"), which you represent, received a request for the city's charter, a specified financial report, and the city's last audit report. We understand the city does not have some of the requested information.<sup>1</sup> You inform us the city has released some information. You claim the submitted information is excepted from disclosure under sections 552.103, 552.108, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, 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:

---

<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(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[.]

Gov't Code § 552.022(a)(3). The information at issue consists of information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body subject to section 552.022(a)(3). The city must release this information unless it is made confidential under the Act or other law. *See id.* You seek to withhold the information subject to section 552.022(a)(3) under sections 552.103 and 552.108 of the Government Code. However, sections 552.103 and 552.108 are discretionary in nature and do not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no. pet.) (governmental body may waive Gov't Code § 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). Therefore, the city may not withhold the information subject to section 552.022(a)(3) under section 552.103 or section 552.108. However, you also assert section 552.136 of the Government Code, which makes information confidential under the Act, for the information subject to section 552.022(a)(3). Thus, we will address the applicability of section 552.136 for this information.

Section 552.136 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 city must withhold the credit card and bank account numbers you have marked under section 552.136 of the Government Code. As you raise no other exceptions against disclosure, the city 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,

A handwritten signature in cursive script that reads "Cole Hutchison". The signature is written in black ink and is positioned above the typed name.

Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/sb

Ref: ID# 695699

Enc. Submitted documents

c: Requestor  
(w/o enclosures)