



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 2, 2019

Ms. Elizabeth Cater  
Attorney  
Texas Parks & Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744-3291

OR2019-11583A

Dear Ms. Cater:

This office issued Open Records Letter No. 2019-11583 (2019) on May 1, 2019. We have examined this ruling and determined we will correct the previously issued ruling. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act"), chapter 552 of the Government Code). Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on May 1, 2019. Your request was assigned ID# 776650 (ORR No. 2019-02-R28).

The Department of Parks and Wildlife (the "department") received a request for information pertaining to RFO 802-12-14699. The department states it has released most of the requested information. Although the department takes no position as to whether the submitted information is excepted under the Act, the department states release of the submitted information may implicate the proprietary interests of Brandt Information Services, Inc. ("Brandt"). Accordingly, the department states, and provides documentation showing, it notified Brandt of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. *See id.* § 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 received comments from Brandt. We have considered the submitted arguments and reviewed the submitted information.

Brandt argues the financial information it has indicated is confidential under section 552.110(b) of the Government Code.<sup>1</sup> Section 552.110(b) protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* Open Records Decision No. 661 at 5 (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).

Brandt, a privately held corporation, contends the release of its financial statements would cause the company substantial competitive harm. Upon review, we conclude Brandt has established the release of its financial statements would cause it substantial competitive injury. Accordingly, the department must withhold the information we have indicated under section 552.110(b) of the Government Code.

We note some of the remaining information is subject to section 552.136 of the Government Code.<sup>2</sup> 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”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision 684 (2009). Accordingly, the department must withhold the insurance policy numbers under section 552.136 of the Government Code.

In summary, the department must withhold the information we have indicated under section 552.110(b) of the Government Code. The department must withhold the insurance policy numbers 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.

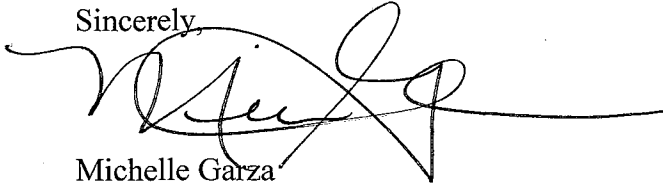
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<sup>1</sup>Although Brandt does not cite to section 552.110 of the Government Code in its comments to our office, we understand Brandt to raise this exception based on the substance of its argument.

<sup>2</sup>The 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).

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](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 black ink, appearing to read 'Michelle Garza', with a long horizontal line extending to the right.

Michelle Garza  
Assistant Attorney General  
Open Records Division

MG/sb

Ref: ID# 776650

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)