



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 9, 2019

Mr. L. Brian Narvaez  
Counsel for the Town of Prosper  
Brown & Hofmeister, L. L. P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2019-18482

Dear Mr. Narvaez:

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# 774271 (Town ID# 2019-049).

The Town of Prosper (the "town"), which you represent, received a request for responses to a specified request for proposals. You state you have released some information to the requestor. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Waste Management of Texas, Inc. ("Waste Management"). Accordingly, you state you notified Waste Management of the request for information and of its right to submit arguments to this office as to why the submitted information 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 reviewed the submitted information.

Initially, you state some of the responsive information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2018-31337 (2018). In that ruling, we determined the town: (1) may withhold certain information under section 552.104(a) of the Government Code; (2) must withhold the insurance policy numbers in the remaining information at issue under section 552.136 of the Government Code; and (3) must release the remaining information; however, the town may only release any

information subject to copyright in accordance with copyright law. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the town must rely on Open Records Letter No. 2018-31337 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Waste Management explaining why the information at issue should not be released. Therefore, we have no basis to conclude Waste Management has a protected proprietary interest in the information at issue. *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 town may not withhold any of the information at issue on the basis of any proprietary interest Waste Management may have in the information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.<sup>1</sup> *See* Gov't Code § 552.130. Accordingly, the town must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

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." *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). Accordingly, the town must withhold the insurance policy numbers we have marked in the remaining information under section 552.136 of the Government Code.

---

<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the town must rely on Open Records Letter No. 2018-31337 as a previous determination and withhold or release the identical information in accordance with that ruling. The town must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code and the insurance policy numbers we have marked in the remaining information under section 552.136 of the Government Code. The town 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](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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/jxd

Ref: ID# 774271

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)