



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 11, 2022

Mr. J. Joel Tovanche  
Assistant City Attorney  
City of Fort Worth  
200 Texas Street, 3rd Floor  
Fort Worth, Texas 76102

OR2022-31081

Dear Mr. Tovanche:

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# 977329 (Ref. No. E003474-061022).

The City of Fort Worth (the "city") received a request for certain invoices pertaining to a specified project.<sup>1</sup> The city states it will release some of the requested information with redactions pursuant to section 552.136(c) of the Government Code.<sup>2</sup> Although the city takes no position as to whether the submitted information is excepted under the Act, the city states release of the submitted information may implicate the proprietary interests of Athenian Group ("Athenian") and BOKA Powell ("BOKA"). Accordingly, the city states, and provides documentation showing, it notified these third parties of the request for information and of their 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.

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<sup>1</sup> We note, and the city acknowledges, it did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the interests of third parties can provide a compelling reason to overcome the presumption of openness, we will consider whether any of the submitted information may be withheld under the Act. *See id.* §§ 552.007, .302, .352.

<sup>2</sup> Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

Initially, 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* Gov't Code § 552.305(d)(2)(B). The city has provided correspondence from Athenian and BOKA generally objecting to release of the information at issue. However, Athenian and BOKA do not raise any exceptions to disclosure under the Act or assert they have a protected proprietary interest in the information at issue. As of the date of this letter, we have not received comments from Athenian or BOKA explaining why the submitted information should not be released. Therefore, we have no basis to conclude Athenian or BOKA has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest Athenian or BOKA 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>3</sup> *See id.* § 552.130. Accordingly, the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

As noted above, the city states it will redact information pursuant to section 552.136(c) of the Government Code. 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." *Id.* § 552.136(b). Section 552.136(a) defines "access device" as "a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument." *Id.* § 552.136(a). Accordingly, the city must withhold the routing, bank account, and credit card numbers within the remaining information under section 552.136 of the Government Code. However, the remaining information does not consist of access device numbers for purposes of section 552.136. Therefore, the city may not withhold any portion of the remaining information under section 552.136 of the Government Code.

We note some of the remaining information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member

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<sup>3</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).

of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The city must withhold the routing, bank account, and credit card numbers within the remaining information under section 552.136 of the Government Code. The city must release the remaining information; however, any information that is subject to copyright may be released only in accordance with copyright law.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Alexandra C. Burks  
Assistant Attorney General  
Open Records Division

ACB/jxd

Ref: ID# 977329

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)