



November 14, 2001

Kelley McCormick
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2001-5263

Dear Ms. McCormick:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 155092.

The Office of the Governor (the "office") received a request for nine categories of personnel, travel and correspondence documents relating to Robert J. "Duke" Bodisch, Sr. You claim that a portion of the requested information is excepted from disclosure under sections 552.117 and 552.136 of the Government Code. We assume that you have released the remaining responsive information. See Gov't Code §§ 552.301, 302. We have considered the exceptions you claim and reviewed the information submitted as representative sample exhibits A-1 through A-7 and exhibits B and C.¹

You claim that credit card numbers in Exhibit A-1 through A-7 are excepted under sections 552.136 of the Government Code. The Seventy-seventh Legislature recently added section 552.136 to the Public Information Act,² which makes credit card numbers confidential.

¹In reaching our conclusions here, we assume that 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 that those records contain substantially different types of information than that submitted to this office.

²The Legislature also enacted two other bills that added section 552.136 to the Public Information Act. One is House Bill 2589, which makes certain e-mail addresses confidential. See Act of May 22, 2001, 77th Leg., R.S., H.B. 2589, § 5 (to be codified at Gov't Code § 552.136). The other is Senate Bill 15, which makes information maintained by family violence shelter centers confidential. See Act of May 14, 2001, 77th Leg., R.S., S.B., § 1 (to be codified at Gov't Code § 552.136). In addition, Senate Bill 694 enacted the same language from House Bill 2589 regarding the confidentiality of e-mail addresses, but codified it as section 552.137 of the Act.

Senate Bill 694 was passed on May 14, 2001, became effective when it was signed by the Governor on May 26, 2001, and provides, in relevant part, as follows:

Sec. 552.136 CONFIDENTIALITY OF CREDIT CARD, DEBIT CARD, CHARGE CARD, AND ACCESS DEVICE NUMBERS.

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value;
or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, 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.

Act of May 14, 2002, 77th Leg., R.S., S.B. 694, § 1 (to be codified at Gov't Code § 552.136). We agree that the credit card numbers that you have marked must be withheld under section 552.136.

You also assert that information in Exhibit B is excepted under section 552.117(1) of the Government Code. Section 552.117(1) excepts from disclosure information that relates to the home address, home telephone number, social security number, and family member information of employees of a governmental body who request that this information remain confidential under section 552.024. You have enclosed as Exhibit C a copy of a properly executed election under section 552.024 indicating the employee's election to withhold such information from public release and dated prior to the date of the request. You explain that the travel voucher submitted as Exhibit B contains a "Payee Identification Number" used by the office for record keeping and tracking purposes. You inform us that this number "is in fact Mr. Bodisch's social security number, with one additional number added at the beginning, two letters and one number at the end." Thus, we agree that you must withhold the employee's social security number which you have marked, under section 552.117(1) of the Government Code.

In conclusion, the office must withhold the credit card numbers in Exhibit A -1 through A-7 under section 552.136 of the Government Code. Further, the office must withhold the information it marked in Exhibit B under section 552.117 of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Gregory T. Simpson
Assistant Attorney General
Open Records Division

GTS/sdk

Ref: ID# 155092

Enc. Submitted documents

c: Mr. Adrian Rodriguez
P.O. Box 4538
Austin, Texas 78765
(w/o enclosures)