ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 2, 2004

Mr. Jason Martinson
Open Records Coordinator
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744-3291

OR2004-1576

Dear Mr. Martinson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 196993.

The Texas Parks and Wildlife Department (the "department") received a request for the mailing addresses of registered Texas Wildscape properties. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.[1]

The information at issue in the present request is encompassed by the previous determination this office issued to the department in Open Records Letter No. 2004-1349 (2004). In that decision, we determined that the department may withhold the name, address, telephone number, social security number, driver's license number, bank account number, credit card number, or charge card number of a person who purchases customer products, licenses, or services from the department, except where disclosure of such information is authorized by section 11.030 or section 12.0251 of the Parks and Wildlife Code, without the necessity of requesting a decision under section 552.301 of the Government Code. *See* Gov't Code § 552.301(a) (governmental body may withhold information subject to previous

[1] 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.

determination), Parks & Wildlife Code §§ 11.030, 12.0251; *see also* Open Records Decision No. 673 (2001) (defining situations in which requested information may be withheld pursuant to previous determination).

We understand you to represent that the required elements of law, fact, and circumstances specified in Open Records Letter No. 2004-1349 (2004) are met in this instance. We therefore determine that the department may withhold the customer information at issue in accordance with Open Records Letter No. 2004-1349 (2004).[2] *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (attorney general decision constitutes second type of previous determination under section 552.301(a) where (1) information at issue falls within specific, clearly delineated category of information about which attorney general has previously rendered decision; (2) previous decision is applicable to particular governmental body from which information is requested; (3) previous decision concludes that specific, clearly delineated category of information is or is not excepted from disclosure; (4) elements of law, fact, and circumstances are met to support previous decision's conclusion that information at issue is or is not excepted from required disclosure; and (5) previous decision explicitly provides that governmental body to which decision applies may withhold information without necessity of again seeking attorney general decision).

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

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[2] Based on this finding, we do not address your arguments against disclosure.

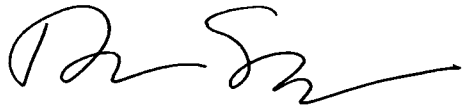
governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The 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 Dep't of Pub. 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 196993

Enc: Submitted documents

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(w/o enclosures)