



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 14, 2007

Ms. Sara Shiplett Waitt  
Senior Associate Commissioner  
Texas Department of Insurance  
Legal and Compliance Division, MC 110-1A  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2007-05828

Dear Ms. Waitt:

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# 278489.

The Texas Department of Insurance (the "department") received a request for a complete copy of a specified complaint file. You claim that portions of the requested information are excepted from disclosure under section 552.137 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You claim that the information you have marked is excepted from disclosure under section 552.137 of the Government Code. This section excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). We note that you have marked a server address. This information, which we have marked, may not be withheld under section 552.137. *See id.* Otherwise, the remaining information you have marked and the additional information we have marked consist of e-mail addresses that do not appear to be one of the types of e-mail address specifically excluded by section 552.137(c). In addition, you inform us that the department has not received any consents for the release of the e-mail addresses at issue. Therefore, other than the information we have marked, the department must withhold the e-mail

addresses you have marked with the additional e-mail address we have marked under section 552.137.

We note that the remaining information includes a bank account number. Section 552.136 of the Government Code provides that “[n]otwithstanding 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.”<sup>1</sup> *Id.* § 552.136. As such, the account number, which we have marked, must be withheld pursuant to section 552.136 of the Government Code.

In summary, other than the server address we have marked, the department must withhold the information you have marked with the additional e-mail address we have marked under section 552.137 of the Government Code. The department must also withhold the bank account number that we have marked under section 552.136 of the Government Code. The remaining information must be released to the requestor.<sup>2</sup>

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the

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<sup>1</sup>Unlike other exceptions to disclosure, this office will raise section 552.136 on behalf of a governmental body, as it is a mandatory exception and may not be waived. *See* Gov’t Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

<sup>2</sup>We note that some of the information being released is confidential and not subject to release to the general public. However, the requestor in this instance has a special right of access to the information. Gov’t Code § 552.023 (person or person’s authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person’s privacy interests). Because such information may be confidential with respect to the general public, if the department receives another request for this information from an individual other than this requestor, the department should again seek our decision.

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 Office of the Attorney General 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,



L. Joseph James  
Assistant Attorney General  
Open Records Division

LJJ/eeg

Ref: ID# 278489

Enc. Submitted documents

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