



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 22, 2009

Ms. Cheri K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2009-05319

Dear Ms. Byles:

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# 340547 (Fort Worth PIR Nos. 1813-09 and 1957-09).

The City of Fort Worth (the "city") received two requests for information regarding the city's agreement for copiers and multifunctional devices. You claim that portions of the submitted information are excepted from disclosure under section 552.136 of the Government Code. The city takes no position with respect to the remaining information, but indicates that its release may implicate the proprietary interests of a third party. You inform us, and provide documentation reflecting, that you have notified Denitech Fort Worth, Inc. ("Denitech") 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 to the requestors. *See Gov't Code § 552.305(d)* (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exception you claim and have reviewed the submitted information.

Initially, we note that 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

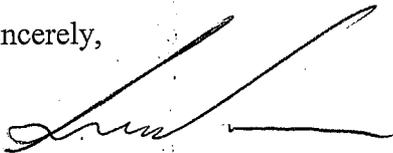
comments from Denitech explaining why the submitted information should not be released. Therefore, we have no basis to conclude that Denitech has a protected interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or 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 (1990). Accordingly the city may not withhold any of the submitted information based upon the interests of Denitech.

Section 552.136 states 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.” Gov’t Code § 552.136(b). We agree that the city must withhold the insurance policy numbers you have highlighted under section 552.136 of the Government Code. However, you have marked a tax identification number under section 552.136 of the Government Code. You have failed to demonstrate how a tax identification number constitutes an access device number for purposes of section 552.136; therefore, the city may not withhold this information under section 552.136. As no further exceptions against the disclosure of the submitted information are raised, the remaining information must be released to the requestor.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 340547

Enc. Submitted documents

Requestor (2)  
(w/o enclosures)

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Mr. Steve Phillips  
President  
Denitech Fort Worth, Inc.  
301 Commerce Street, Suite 1400  
Fort Worth, Texas 76102  
(w/o enclosures)