



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 10, 2009

Ms. Amy L. Sims
Assistant City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 77457

OR2009-09541

Dear Ms. Sims:

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# 349318.

The City of Lubbock (the "city") received a request for the "Takedown & Expenses" section from the closing documents or financing plan for specified city bonds. The city claims the information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information that is considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. The city asserts the information is confidential. However, the city provided no arguments explaining how section 552.101 applies. *See id.* § 552.301(e)(1)(A) (providing governmental body must provide sufficient arguments to establish applicability of claimed exceptions). Therefore, because the city failed to demonstrate the submitted information is confidential, the city may not withhold the information under section 552.101.

Section 552.136 states "[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." *Id.* § 552.136(b). "Access device" is an account number, personal identification number, electronic serial number, mobile identification number, or other 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. Accordingly, the city must withhold the access device numbers under section 552.136 of the Government Code. However, the city has not explained how the remaining numbers are access device numbers under section 552.136. Thus, the city must release the numbers we marked.

Lastly, although the city does not assert section 552.137 of the Government Code in its brief, the city has highlighted an e-mail address in the submitted documents. Thus, we will consider the applicability of section 552.137 to the highlighted e-mail address if such marking is an indication of the city's wish to withhold it. Section 552.137 provides an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure. *Id.* § 552.137(a). However, a private e-mail address is not excepted from public disclosure if provided to a governmental body on a letterhead. *Id.* § 552.137(c)(4). Here, the highlighted e-mail address is on a letterhead. Therefore, the city may not withhold it under section 552.137.

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, 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 349318

Enc. Marked documents

c: Requestor
(w/o enclosures) July 10, 2009