



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 24, 2009

Mr. Bryan P. Fowler
The Fowler Law Firm
300 West Davis, Suite 510
Conroe, Texas 77301

OR2009-11883

Dear Mr. Fowler:

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# 353252.

The City of Montgomery (the "city"), which you represent, received a request for the "summary pages" of all cellular telephone bills received by the city in the year 2008. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note that the submitted information consists of itemized cellular telephone bills. Section 552.022 provides in relevant part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). Upon review of the submitted records, we conclude that because the submitted bills are "information in an account, voucher, or contract relating to the . . . expenditure of public funds," section 552.022(a)(3) is applicable to the submitted information. Gov't Code § 552.022(a)(3). Therefore, the bills must be released to the

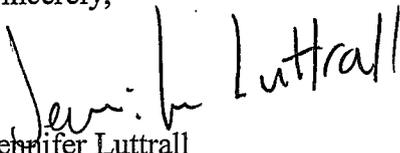
requestor unless they are expressly made confidential under other law. *See id.* You argue that the some of the cellular telephone numbers assigned to city police department officers are excepted from disclosure under section 552.108 of the Government Code. We note, however, that section 552.108 is a discretionary exception and, as such, generally does not make information confidential under section 552.022. *See* Open Records Decision No. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 522 at 4 (1989) (discretionary exceptions in general). Accordingly, we conclude that the city may not withhold the submitted information under section 552.108 of the Government Code.

We note that portions of the submitted information are subject to section 552.136 of the Government Code.¹ 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. Accordingly, we find that the city must withhold the account and routing numbers we have marked under section 552.136 of the Government Code. The remaining information must be released.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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Enc. Submitted documents

c: Requestor
(w/o enclosures)