



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2009

Mr. Riley Woods
Senior Staff Counsel
Brazos River Authority
P.O. Box 7555
Waco, Texas 76714-7555

OR2009-17897

Dear Mr. Woods:

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# 370688.

The Brazos River Authority (the "authority") received a request for information relating to a specified permit number, Baker Street Harbor, and all other waterfront properties on Shady Grove Court. You state that some of the requested information either has been or will be released. You claim that other responsive information is excepted from disclosure under section 552.136 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

We note that the authority did not comply with section 552.301 of the Government Code in requesting this decision. Section 552.301(b) provides that a governmental body must ask for the attorney general's decision and claim its exceptions to disclosure not later than the tenth business day after the date of its receipt of the written request for information. *See Gov't Code* § 552.301(b). Section 552.302 of the Government Code provides that if a governmental body fails to comply with section 552.301, the requested information is presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold any of the information. *See id.* § 552.302; *City of Dallas v. Abbott*, 279 S.W.3d 806 (Tex. App.—Amarillo 2007, pet. granted); *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App. — Austin 1990, no writ).

You state that the authority received the request for the information at issue on November 20, 2009; therefore, the authority's ten-business-day deadline under

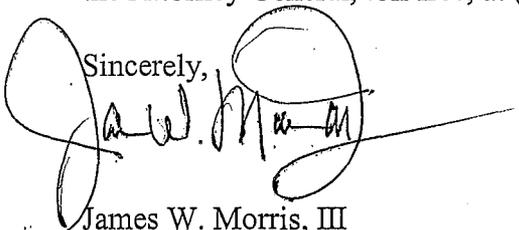
section 552.301(b) was December 8. The authority requested this decision by United States Mail postmarked December 9. Thus, the authority did not comply with section 552.301 in requesting this decision, and the submitted information is therefore presumed to be public under section 552.302. This statutory presumption can generally be overcome when information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Because your claim under section 552.136 of the Government Code can provide a compelling reason for non-disclosure, we will address that exception.

Section 552.136 of the Government Code provides in part that “[n]otwithstanding any other provision of [the Act], 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); *see id.* § 552.136(a) (defining “access device”). We agree that the authority must withhold the bank account and bank routing numbers you have marked under section 552.136 of the Government Code.¹ This exception is not applicable, however, to the check numbers you have marked. Therefore, the check numbers may not be withheld under section 552.136 and must be released. The authority must also release the rest of the submitted information, unless it has already done so.

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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III", written over a horizontal line.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including bank account and routing numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 370688

Enc: Submitted documents

c: Requestor
(w/o enclosures)