



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 23, 2012

Ms. Blakely L. Fernandez
Tuggey Fernandez L.L.P.
3707 North St. Mary's Street, Suite 200
San Antonio, Texas 78212

OR2012-01045

Dear Ms. Fernandez:

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# 443008.

The Hidalgo County Regional Mobility Authority (the "authority"), which you represent, received two requests for a specified resolution, professional services agreement, and work authorization.¹ You state you have released some of the requested information to the requestors. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Dannenbaum Engineering Corporation ("Dannenbaum"). Accordingly, you notified Dannenbaum 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. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Act in certain circumstances). We have reviewed the submitted information.

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, Dannenbaum has not submitted comments to this office explaining why the submitted information should not be released.

¹You state the authority sought and received clarification of the requests. *See* Gov't Code § 552.222(b) (stating if information requested is unclear or large amount has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

Therefore, we have no basis to conclude that Dannenbaum has a protected proprietary 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. Thus, the authority may not withhold any portion of the submitted information based upon the proprietary interests of Dannenbaum.

We note the submitted information includes insurance policy numbers. 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.”² Gov’t Code § 552.136(b); *see also id.* § 552.136(c) (defining “access device”). This office has determined that an insurance policy number is an access device number for purposes of section 552.136. Therefore, the authority must withhold the insurance policy numbers we have marked under section 552.136. As no further exceptions to disclosure are raised, the remaining information must be released to the requestors.

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,



Sarah Casterline
Assistant Attorney General
Open Records Division

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²The 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).

Ref: ID# 443008

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

Mr. Louis Jones
Dannenbaum Engineering Corporation
1109 Nolana Avenue, Suite 208
McAllen, Texas 78504
(w/o enclosures)