



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 1, 2015

Mr. Craig Purifoy
Open Records Coordinator
Texas Department of Family and Protective Services
P. O. Box 149030
Austin, Texas 78714-9030

OR2015-06248

Dear Mr. Purifoy:

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# 560185 (DFPS ORR ID#013020158JI).

The Texas Department of Family and Protective Services (the "department") received a request for the current or pending application to operate a facility in Gladewater, Texas submitted by Southern Covenant Treatment Center ("SCTC"). The department takes no position as to release of the information and has notified SCTC of the request for information and its right to submit arguments stating why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling we have not received comments from SCTC. Thus, we have no basis to conclude

SCTC has a protected proprietary interest in the submitted information. *See id.* § 552.110(a)-(b); 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 the 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. Accordingly, the department may not withhold the information on the basis of any proprietary interest SCTC may have in it.

We note the submitted information contains information subject to section 552.130 of the Government Code.¹ Section 552.130 provides that information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country is confidential. Gov't Code § 552.130. The department must withhold the information we have marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, "[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." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance certificate and policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). The department must withhold the information we have marked under section 552.136 of the Government Code.

In summary, we have marked the information that must withheld under sections 552.130 and 552.136 of the Government Code. The remaining submitted information must be released.²

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

¹The Office of the Attorney General will raise mandatory exceptions like sections 552.130 and 552.136 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note the information being released contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Ramsey Abarca".

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/eb

Ref: ID# 560185

Enc. Submitted documents

c: Requestor
(w/o enclosures)