



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 2, 2016

Ms. Lisa Biediger
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2016-02517

Dear Ms. Biediger:

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# 596397 (COSA File No. W102439-110615).

The City of San Antonio (the "city") received a request for all submitted proposals for the request for proposals for Marketing Services for the city's Tricentennial Celebration. 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 Andrade Design, Inc.; Creative Civilization; GDC Marketing & Ideation; KGBTexas Communications; Garcia Baldwin, Inc.; and Mighty Studio Group, LLC. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their 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 the Act in certain circumstances). We have reviewed the submitted information.

We note 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 letter, we have not received comments from any of the third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude any

of the third parties have any protected proprietary interest in the 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. Consequently, the city may not withhold any of the submitted information on the basis of any proprietary interests any of the third parties may have in the information.

We note portions of the submitted information are subject to section 552.136 of the Government Code, which states “[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.”¹ Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device for purposes of this exception. *See* Open Records Decision No. 684 at 9 (2009). Thus, the city must withhold the insurance policy numbers and account numbers in the submitted information under section 552.136 of the Government Code.

We also note that some of the remaining information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. *See* Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *See id.*; *see also* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

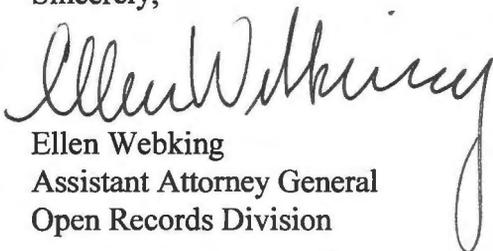
In summary, the city must withhold the insurance police numbers and account numbers in the submitted information under section 552.136 of the Government Code. The city must release the remaining information, but any information protected by copyright may only be released in accordance with copyright law.

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.

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

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

Sincerely,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/akg

Ref: ID# 596397

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Janine Richards
Andrade Design, Inc.
dba Andrade Communicators
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San Antonio, Texas 78212
(w/o enclosures)

Ms. Gisela Girard
Creative Civilization
106 Auditorium Circle, 2nd Floor
San Antonio, Texas 78205
(w/o enclosures)

Ms. Dona Kotzur
GDC Marketing & Ideation
219 East Houston, Suite 350
San Antonio, Texas 78205
(w/o enclosures)

Ms. Katie Harvey
kgbtexas Communications
200 East Grayson Street, Suite 210
San Antonio, Texas 78215
(w/o enclosures)

Ms. Norma Casillas
Garcia Baldwin, Inc.
dba MarketVision
8647 Wurzbach Road, Suite J100
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Mr. Shokare Nakpodia
Mighty Studio Group, LLC
1160 East Commerce Street, Suite 200
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