



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 13, 2009

Mr. Michael J. Cosentino
City Attorney
City of San Marcos
630 East Hopkins
San Marcos, Texas 78666

OR2009-14426

Dear Mr. Cosentino:

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# 358131.

The City of San Marcos (the "city") received a request for (1) proposals submitted for hotel occupancy tax ("HOT") funds and (2) total HOT funds available to be requested. You state that some of the requested information will be released. You take no position on the public availability of the information you have submitted. You believe, however, that the submitted information may implicate the proprietary interests of Tanger Outlet Center of San Marcos ("Tanger"). You inform us that Tanger was notified of this request for information and of its right to submit arguments to this office as to why the information should not be released.¹ We have reviewed the submitted information.

An interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code 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 decision, this office has received no correspondence from Tanger. Thus, because Tanger has not demonstrated that any of the

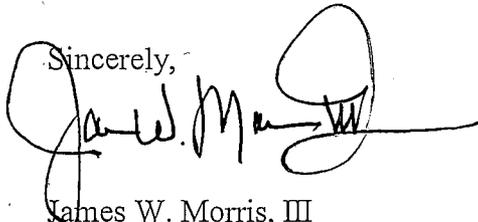
¹*See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

information at issue is proprietary for the purposes of the Act, the city may not withhold any of the submitted information on that basis. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999). Therefore, as the city does not claim an exception to disclosure, the submitted 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, toll free, at (888) 672-6787.

Sincerely,



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

JWM/cc

Ref: ID# 358131

Enc: Submitted documents

c: Requestor
(w/o enclosures)

Ms. Michelle Carswell
General Manager
Tanger Outlet Center of San Marcos
c/o Mr. Michael J. Cosentino
City of San Marcos
630 East Hopkins
San Marcos, Texas 78666
(w/o enclosures)