



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 26, 2010

Mr. Frank B. Burney
Martin & Drought, P.C.
Bank of America Plaza, 25th Floor
300 Convent Street
San Antonio, Texas 78205-3789

OR2010-01219

Dear Mr. Burney:

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# 368127.

The Fire and Police Retiree Health Care Fund, San Antonio (the "health care fund") received a request for private placement memoranda, marketing brochures, offering memoranda, partnership agreements, and subscription agreements on Auerus Global Core Plus Real Estate Fund ("Aureus"), and due diligence documents, evaluations, or staff correspondence relating to Longroad Asset Management, LLC ("Longroad"). You state to the extent information subject to section 552.0225 of the Government Code was requested, it has been released. Gov't Code § 552.0225(b) (listing categories of information relating to governmental body's investments which are public information and not excepted from disclosure under chapter 552 of Government Code). You claim the submitted information is excepted from disclosure under sections 552.101, 552.104, 552.107, and 552.143 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of third parties Aureus and Longroad. Accordingly, you state, and provide documentation showing, you notified Aureus and Longroad of the health care fund's receipt of the request for information and of their right to submit arguments to this office as to why their information should not be released to the requestor. *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 considered the submitted comments and reviewed the submitted information.

Section 552.143 of the Government Code provides in pertinent part:

(a) All information prepared or provided by a private investment fund and held by a governmental body that is not listed in Section 552.0225(b) is confidential and excepted from the requirements of Section 552.021.

(b) Unless the information has been publicly released, pre-investment and post-investment diligence information, including reviews and analyses, prepared or maintained by a governmental body or a private investment fund is confidential and excepted from the requirements of Section 552.021, except to the extent it is subject to disclosure under Subsection (c).

Gov't Code § 552.143(a), (b). You inform us the submitted information was provided by Aureus and Longroad, which you represent are private investment funds. You assert the submitted information contains pre-investment or post-investment due diligence information prepared by Aureus and pre-investment due diligence information prepared by Longroad which is not in the public domain. You also state the submitted information is not subject to section 552.0225 of the Government Code. *See id.* § 552.0225(b). Based on these representations and our review of the submitted information, we agree the health care fund must withhold the submitted information under section 552.143(a) of the Government Code. As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 368127

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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