



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 21, 2011

Ms. Marie A. Taylor
Assistant City Attorney
Office of the City Attorney
2 Civic Center Plaza, 9th Floor
El Paso, Texas 79901

OR2011-01071

Dear Ms. Taylor:

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# 406485.

The City of El Paso (the "city") received a request for all records regarding the source of funding for a loan granted to Southside Low Income Housing Development Corporation ("Southside"), all applications for the same relating to a specified property and loan number 2004, and all correspondence relating to the specified property. You state you have released some of the requested information. Although the city takes no position as to the disclosure of the submitted information, you state that it may contain confidential and proprietary information subject to exception under the Act.¹ Accordingly, you have notified Southside 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 the Act in certain circumstances). We have reviewed the submitted representative sample of information.²

¹Although you raise section 552.101 of the Government Code, you provide no arguments explaining how this exception is applicable to the submitted information. Thus, we presume you have withdrawn your claim under this exception. *See* Gov't Code §§ 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested), .302.

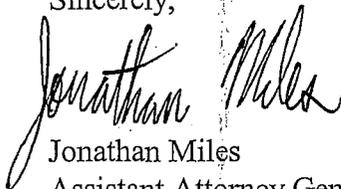
²We assume the "representative sample" of records submitted to this office are truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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, we have not received comments from Southside explaining why the submitted information should not be released. Therefore, we have no basis to conclude Southside 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. Accordingly, the city may not withhold the submitted information based upon the proprietary interests of Southside. As no exceptions against the disclosure of the submitted information have been raised, it 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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 406485

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Carmen Felix
Executive Director
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P.O. Box 9732
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