



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 3, 2014

Ms. Doreen E. McGookey
General Counsel
Fort Worth Employees' Retirement Fund
3801 Hulen Street, Suite 101
Fort Worth, Texas 76107

OR2014-09421

Dear Ms. McGookey:

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# 524638.

The Fort Worth Employees' Retirement Fund (the "fund") received a request for any meeting transcripts or minutes where Vicis Capital, LLC ("Vicis") was discussed and any information presented to the fund about Vicis. You claim the submitted information is excepted from disclosure under section 552.143 of the Government Code. You also state you notified Albourne America, LLC ("Albourne") 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 received comments from Albourne. We have considered the submitted arguments and reviewed the submitted information.

Section 552.143 of the Government Code provides in relevant part the following:

- (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 for 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).

(c) All information regarding a governmental body's direct purchase, holding, or disposal of restricted securities that is not listed in Section 552.0225(b)(2)-(9), (11), (13)-(16) is confidential and excepted from the requirements of Section 552.021. This Subsection does not apply to a governmental body's purchase, holding, or disposal of, restricted securities for the purpose of reinvestment nor does it apply to a private investment fund's investment in restricted securities.

Gov't Code § 552.143(a)-(c). You state the submitted information has not been publicly released and consists of pre-investment diligence information prepared for and maintained by the fund. You also state this information is not subject to section 552.143(c) of the Government Code. Based on your representations and our review, we agree section 552.143(b) of the Government Code is applicable to the submitted information. Thus, the fund must withhold the submitted information under section 552.143(b) of the Government Code.¹

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

Sincerely,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

¹As our ruling is dispositive, we need not address Albourne's remaining arguments against disclosure.

Ref: ID# 524638

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Albourne America, LLC
c/o Ms. Claire Swift Kugler
Morgan, Lewis & Bockius, LLP
1000 Louisiana Street, Suite 4000
Houston, Texas 77002
(w/o enclosures)