



January 5, 2015

Mr. Gary B. Lawson  
Counsel for the Employees' Retirement Fund of the City of Dallas  
Strasburger & Price, L.L.P.  
901 Main Street, Suite 4400  
Dallas, Texas 75202-3794

OR2015-00095

Dear Mr. Lawson:

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# 548512.

The Employees' Retirement Fund of the City of Dallas (the "ERF"), which you represent, received a request for (1) board meeting minutes during a specified time period, (2) the ERF's most recent quarterly report, and (3) specified documents presented in public session to the board during a specified time period. Although you take no position with respect to the submitted information, you state its release may implicate the interests of GCM Grosvenor Capital Management, L.P. ("GCM"). Accordingly, you state, and provide documentation demonstrating, the ERF notified GCM of the request for information and of its right to submit arguments stating why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information and the correspondence submitted by GCM.

Initially, we note you have only submitted information responsive to item three of the request. To the extent the ERF maintained any other responsive information on the date it received the request for information, we assume the ERF has released it. If the ERF has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301, .302;

*see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Next, we note GCM seeks to withhold information the ERF did not submit for our review. Because such information was not submitted by the governmental body, this ruling does not address that information and is limited to the information submitted as responsive by the district. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested).

Next, we note some of the information at issue may be subject to section 552.0225 of the Government Code. Section 552.0225(b) provides as follows:

The following categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under [the Act]:

- (1) the name of any fund or investment entity the governmental body is or has invested in;
- (2) the date that a fund or investment entity described by Subdivision (1) was established;
- (3) each date the governmental body invested in a fund or investment entity described by Subdivision (1);
- (4) the amount of money, expressed in dollars, the governmental body has committed to a fund or investment entity;
- (5) the amount of money, expressed in dollars, the governmental body is investing or has invested in any fund or investment entity;
- (6) the total amount of money, expressed in dollars, the governmental body received from any fund or investment entity in connection with an investment;
- (7) the internal rate of return or other standard used by a governmental body in connection with each fund or investment entity it is or has invested in and the date on which the return or other standard was calculated;
- (8) the remaining value of any fund or investment entity the governmental body is or has invested in;

(9) the total amount of fees, including expenses, charges, and other compensation, assessed against the governmental body by, or paid by the governmental body to, any fund or investment entity or principal of any fund or investment entity in which the governmental body is or has invested;

(10) the names of the principals responsible for managing any fund or investment entity in which the governmental body is or has invested;

(11) each recusal filed by a member of the governing board in connection with a deliberation or action of the governmental body relating to an investment;

(12) a description of all of the types of businesses a governmental body is or has invested in through a fund or investment entity;

(13) the minutes and audio or video recordings of each open portion of a meeting of the governmental body at which an item described by this subsection was discussed;

(14) the governmental body's percentage ownership interest in a fund or investment entity the governmental body is or has invested in;

(15) any annual ethics disclosure report submitted to the governmental body by a fund or investment entity the governmental body is or has invested in; and

(16) the cash-on-cash return realized by the governmental body for a fund or investment entity the governmental body is or has invested in.

Gov't Code § 552.0225(b). GCM argues portions of the submitted information are excepted from disclosure under sections 552.110 and 552.143 of the Government Code. However, the exceptions to disclosure found in the Act, including sections 552.110 and 552.143, do not apply to information made public by section 552.0225. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, the ERF must release the types of information enumerated in section 552.0225(b) of the Government Code.

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). GCM states portions of the submitted information consist of information prepared and provided by a private investment fund, and claims the information "was provided confidentially to [ERF] board members and staff, but not distributed publicly or shown to other persons in attendance." GCM informs us the information it seeks to withhold is not subject to section 552.0225(b). *See id.* § 552.0225(b) (listing categories of information held by governmental body relating to its investments that are public and not excepted from disclosure under the Act). Based on these representations and our review, we find, with the exception of information the ERF must release pursuant to section 552.0225(b) of the Government Code, the ERF must withhold the information GCM seeks to withhold, which we have marked, under section 552.143(a) of the Government Code.<sup>1</sup>

We note 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. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* 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, with the exception of information the ERF must release pursuant to section 552.0225(b) of the Government Code, the ERF must withhold the information we have marked under section 552.143(a) of the Government Code. The ERF must release the remaining information; however, the ERF may only release information subject to copyright law in accordance with copyright law.

---

<sup>1</sup>As our ruling is dispositive, we need not address GCM's remaining arguments against disclosure of this information.

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](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,



Lee Seidlits  
Assistant Attorney General  
Open Records Division

CLS/som

Ref: ID# 548512

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Kelly Williams  
President  
GCM Grosvenor Private Markets  
767 Fifth Avenue, 14<sup>th</sup> Floor  
New York, New York 10153  
(w/o enclosures)