



January 6, 2015

Mr. R. Brooks Moore  
Managing Counsel, Governance  
Office of General Counsel  
The Texas A&M University System  
301 Tarrow Street, 6<sup>th</sup> Floor  
College Station, Texas 77840-7896

OR2015-00158

Dear Mr. Moore:

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# 548873 (TAMU 14-666).

Texas A&M University (the "university") received a request for communications for a specified time period between representatives of "VF Corporation and/or JanSport," and four named individuals. You claim portions of the submitted information are excepted from disclosure under section 552.137 of the Government Code.<sup>1</sup> You also state the release of the information at issue may implicate the interests of VF Licensed Sports Group ("VFLSG"). Accordingly, you state, and provide documentation demonstrating, the university notified VFLSG 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

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<sup>1</sup>Although you do not raise section 552.137 of the Government Code in your brief, we understand you to assert this exception based on your markings.

explain applicability of exception in certain circumstances). We have considered the exception you claim and reviewed the submitted information.<sup>2</sup>

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) of the Government Code to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, this office has not received comments from VFLSG explaining why its information should not be released to the requestor. Thus, we have no basis to conclude the release of the submitted information would implicate VFLSG's interests, and none of the submitted information may be withheld on that basis. *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.

We note you have marked certain e-mail addresses within the submitted information. Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov't Code §.552.137(a)-(c). Section 552.137 is not applicable to an institutional e-mail address, an Internet website address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, or an e-mail address maintained by a governmental entity for one of its officials or employees. Upon review, we find the e-mail addresses you have marked are subject to section 552.137(c). Thus, the university may not withhold the marked e-mail address under section 552.137. As no further exceptions to disclosure have been raised, the university must release the submitted 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.

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<sup>2</sup>You acknowledge, and we agree, the university failed to comply with the procedural requirements of section 552.301(b) of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b). Nonetheless, section 552.137 of the Government Code is a mandatory exception that can provide a compelling reason to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302. Additionally, third party interests can provide a compelling reason to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* § 552.302; Open Records Decision No. 150 at 2 (1977). Thus, we will address the public availability of the submitted information, notwithstanding the university's violation of section 552.301 in requesting this decision.

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,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/akg

Ref: ID# 548873

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)