



February 4, 2015

Mr. Ted Murphree  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2015-02241

Dear Mr. Murphree:

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# 552481 (COSA File No. W039184-110614).

The City of San Antonio (the "city") received a request for all documents related to a specified building permit, including applications, notes, correspondence, reviews, and inspection reports for the "parent" and "child" permits. We understand you will release some information to the requestor. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified Bender Wells Clark Design ("Bender"); Civil Engineering Consultants ("CEC"); exp US Services, Inc. ("EXP"); Garza Consulting ("Garza"); Peckham, Guyton, Albers & Viets, Inc. ("PGAV"); Peller & Associates, Inc. ("Peller"); and Satchell Engineering & Associates, Inc. ("Satchell") of the request for information and of their 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 arguments from Bender, CEC, EXP, Garza, PGAV, Peller, and Satchell. We have also received arguments from the requestor and SeaWorld Parks and Entertainment

("SeaWorld").<sup>1</sup> *See* Gov't Code § 552.304 (interested third party may submit written comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Initially, we note SeaWorld objects to disclosure of information the city has not submitted to this office for review. This ruling does not address information that was not submitted by the city and is limited to the information submitted as responsive by the city. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested).

SeaWorld contends portions of the submitted information are excepted under section 552.110 of the Government Code, which protects (1) trade secrets, and (2) commercial or financial information, the disclosure of which would cause substantial competitive harm to the person from whom the information was obtained.<sup>2</sup> *See id.* § 552.110(a), (b). Section 552.110(b) protects "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]" Gov't Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* Open Records Decision No. 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).

SeaWorld contends its submitted building plans constitute commercial or financial information, the release of which would cause the company substantial competitive harm. SeaWorld states the building plans include "construction documents, drawing, and specifications" for a "unique attraction." SeaWorld further states it signed confidentiality agreements with the architect PGAV and all subcontractors and states the submitted building plans are "maintained in SeaWorld's Design and Engineering Department and are shown only to those team members with a need to know the information." SeaWorld further asserts release of the submitted building plans would allow competitors to "copy SeaWorld plans and develop similar areas near in time to SeaWorld's new attraction opening." Upon review, we find SeaWorld has established its building plans constitute commercial or financial

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<sup>1</sup>SeaWorld states the information at issue pertains to a new area being constructed in the SeaWorld San Antonio Park. SeaWorld further states the information at issue was submitted to the city by the remaining third parties in their capacities as contractors and subcontractors for SeaWorld. Thus, based on these representations, SeaWorld contends and we agree, SeaWorld is the owner of the information at issue.

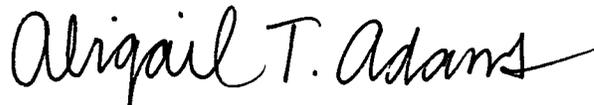
<sup>2</sup> We note Bender, CEC, EXP, Garza, PGAV, Peller, and Satchell incorporate by reference all of the arguments made by SeaWorld.

information, the release of which would cause SeaWorld substantial competitive harm. Therefore, the city must withhold the information we have marked under section 552.110(b) of the Government Code.<sup>3</sup> As no further exceptions have been raised, the city must release the remaining 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.

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,



Abigail T. Adams  
Assistant Attorney General  
Open Records Division

ATA/akg

Ref: ID# 552481

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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