



February 23, 2015

Ms. Elizabeth Elleson
Counsel for the City of West Lake Hills
Bojorquez Law Firm, P.C.
12325 Hymeadow Drive, Suite 2-100
Austin, Texas 78750

OR2015-03542

Dear Ms. Elleson:

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# 554356.

The City of West Lake Hills Police Department (the "department"), which you represent, received a request for handwritten notes taken by the requestor, on a specified date, that relate to a specified case number. We understand the department to take no position regarding the submitted information. However, you state release of the submitted information may implicate the interests of the Lost Creek Neighborhood Association (the "association"). Accordingly, you state the department notified the association 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 the association. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the arguments made and reviewed the submitted information.

The association raises section 552.107(1) of the Government Code. *Id.* § 552.107(1). Section 552.107(1) protects information that comes within the attorney-client privilege. Section 552.107(1), however, is a discretionary exception that protects only the interests of a governmental body, as distinguished from exceptions that are intended to protect the interests of third parties. *See* Open Record Decision No. 676 at 10-11 (attorney-client privilege under section 552.107(1) may be waived) (2002). Therefore, because the

department did not raise section 552.107(1), we do not address the association's arguments under section 552.107(1).

The association claims the submitted information is excepted from disclosure under section 552.110(b) of the Government Code. Section 552.110(b) protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence 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, substantial competitive injury would likely result from release of the information at issue. *Id.*

The association asserts the submitted information consist of protected commercial and financial information under section 552.110(b) of the Government Code. Upon review, we find the association has not made the specific factual or evidentiary showing required by section 552.110(b) that release of any of the remaining information at issue would cause the association substantial competitive harm. *See* Open Records Decision No. 661 at 5 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, release of requested information would cause that party substantial competitive harm). We therefore conclude the department may not withhold any of the submitted information under section 552.110(b) of the Government Code. As no further exceptions to disclosure have been raised, the submitted information 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.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,



Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 554356

Enc. Submitted documents

c: Requestor
(w/o enclosures)