



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 1, 2015

Ms. Elaine Nicholson
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2015-06262

Dear Ms. Nicholson:

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# 558276.

The City of Austin (the "city") received a request for the Request for Proposal and supporting documents submitted by Scott Airport Parking, LLC ("Scott"), and any other related documentation including the lease between the city and Scott. You state you have released some information to the requestor. Although you take no position as to whether the requested information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of a third party.¹ Accordingly, the city notified Scott of the request for information and of the company's right to submit arguments to this office as to why the requested 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 Scott. We have considered the submitted arguments and reviewed the submitted information.

Scott notes and we agree the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2014-09542 (2014). In that ruling, we determined, in part: (1) the city must withhold the information we marked under section 552.110(b) of the Government Code; and (2) the city must release the

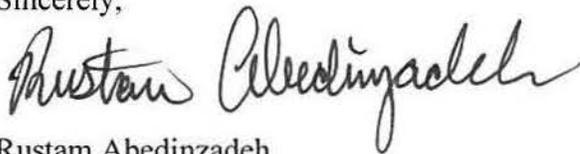
¹We note, and the city acknowledges, the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, because third-party interests are at stake, we will consider whether the submitted information must be withheld under the Act based on third-party interests. *See id.* §§ 552.007, .302, .352.

remaining information, but any information subject to copyright may only be released in accordance with copyright law. In response to our ruling, Scott has filed a lawsuit against our office. *See Scott Airport Prop., LLC v. Attorney Gen. of Tex.*, No. D-1-GN-14-001876 (201st Dist. Ct., Travis County, Tex.). Accordingly, we will allow the trial court to resolve the issue of whether Scott's information at issue in the pending litigation must be released to the public. As we are able to make this determination, we need not address the submitted arguments against disclosure.

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# 558276

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Scott Airport Property, LLC
c/o Ms. Mary F. Keller
Winstead
401 Congress Avenue, Suite 2100
Austin, Texas 78701
(w/o enclosures)