



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 14, 2015

Ms. J. Iris Gibson
Counsel for the San Antonio Zoological Society, Inc.
Haynes and Boone, LLP
600 Congress Avenue, Suite 1300
Austin, Texas 78701-3285

OR2015-14306

Dear Ms. Gibson:

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# 569187.

The San Antonio Zoological Society, Inc. (the "society") received a request for specified information pertaining to Asian and African elephants, complaints about animal care, and previous requests for information during a specified time period. You claim the society is not subject to the Act. In the alternative, you claim the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered your arguments.

You assert the society is not a governmental body, and therefore it is not subject to the Act. The Act defines "governmental body" in pertinent part as

the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds[.]

Gov't Code § 552.003(1)(A)(xii). "Public funds" means "funds of the state or of a governmental subdivision of the state." *Id.* § 552.003(5). The Texas Supreme Court has defined "'supported in whole or part by public funds' to include only those private entities or their sub-parts sustained, at least in part, by public funds, meaning they could not perform

the same or similar services without the public funds.” *Greater Houston P’ship v. Paxton*, No. 13-0745, 2015 WL 3978138, at *9 (Tex. June 26, 2015). Thus, section 552.003(1)(A)(xii) encompasses only those private entities that are dependent on public funds to operate as a going concern, *see id.* at *7, and only those entities acting as the functional equivalent of the government, *see id.* at *8.

You state the society is a non-profit section 501(c)(3) corporation that operates a zoo. You explain the society bears, at its sole cost and expense, all cost relating to “the operation of the [z]oo, including but not limited to, cost of managing, operating, maintaining, development, equipment, supplies, and all capital improvements.” You state the society depends on gate receipts, sales revenue from concession sales, retail sales, ride revenue, membership dues, donations, and private grants to cover its operating expenses. You also state the society received grant money from the City of San Antonio (the “city”) to be used for marketing and tourism services. In response to a request for additional information this office sent pursuant to section 552.303 of the Government Code, you submitted to this office the grant funding agreement (the “agreement”) between the city and the society. *See Gov’t Code* § 552.303(c)-(d) (if attorney general determines that information in addition to that required by section 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general not later than seventh calendar day after receipt of notice). You state, and the agreement reflects, the society may only use the grant money for specified membership services and to produce media outlet marketing, brochures, and handouts. You explain the grant money received from the city is segregated and used only for the limited purposes set out in the agreement. Upon review of your representations and the agreement, we find the society is not sustained by public funds. *See Greater Houston P’ship*, No. 13-0745, 2015 WL 3978138, at *9. Therefore, we conclude the society is not sustained in whole or part by public funds. Consequently, the society does not fall within the definition of a “governmental body” under section 552.003(1)(A)(xii) of the Government Code and is not subject to the Act. Accordingly, the society need not respond to the present request for information.¹

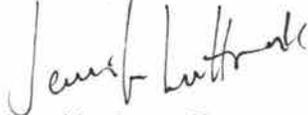
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹As we are able to make this determination, we need not address your argument against disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Luttrall". The signature is written in a cursive style with a large initial "J".

Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/cbz

Ref: ID# 569187

Enc. Submitted documents

c: Requestor
(w/o enclosures)