



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 23, 2015

Ms. Meredith Riede
City Attorney
City of Sugar Land
P.O. Box 110
Sugar Land, Texas 77487-0110

OR2015-19987

Dear Ms. Riede:

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# 580289.

The City of Sugar Land (the "city") received a request for specified financial records, financial statements, prospect reports, annual summary reports, and tax abatement agreements pertaining to the Greater Fort Bend Economic Development Council (the "council"). You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. Additionally, you state the proprietary interests of the council might be implicated by the request. Accordingly, you notified the council of the request and of its right to submit arguments to this office explaining 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); *see also* 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 explain applicability of exception in certain circumstances). We have received arguments submitted by the council. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you have only submitted prospect reports. To the extent any additional information responsive to this request existed and was maintained by the city on the date it received this request, we assume that information has been released. If the city has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release the information as soon as possible).

The council asserts the submitted information is not subject to the Act. The Act is applicable only to "public information." *See* Gov't Code § 552.002, .021. Section 552.002(a) defines "public information" as information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Id. § 552.002. Thus, virtually all the information in a governmental body's physical possession constitutes public information and is subject to the Act. *See id.* § 552.002(a)(1); *see also* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The council informs us the submitted information was created by the council for the internal use of the council. However, the council also informs us the submitted information was presented to the city in an effort to coordinate prospect expansion and relocation activities with the city. In light of this, we find the city collected and maintains the submitted information in connection with the transaction of its official business. Therefore, we conclude this information is subject to the Act and must be released, unless the information falls within an exception to disclosure under the Act. *See* Gov't Code §§ 552.006, .021, .301, .302.

The city raises section 552.110 of the Government Code for the submitted information. We note section 552.110 is designed to protect the interests of third parties, not the interests of

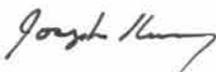
a governmental body. Thus, we do not address the city's arguments under section 552.110. However, we will address the council's arguments under section 552.110 for the submitted information.

The council claims the submitted information is excepted from disclosure under section 552.110(b) of the Government Code, which 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[.]" *Id.* § 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). Upon review, we find the council has demonstrated the submitted information constitutes commercial or financial information, the release of which would cause it substantial competitive injury. Accordingly, the city must withhold the submitted information under section 552.110(b) of the Government Code.

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,



Joseph Keeney
Assistant Attorney General
Open Records Division

JDK/dls

Ref: ID# 580289

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Greater Fort Bend Economic Development Council
c/o Mr. Steve Robinson
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3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
(w/o enclosures)