



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 5, 2016

Ms. Danielle Folsom
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2016-00270

Dear Ms. Folsom:

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# 593349 (GC No. 22744).

The City of Houston (the "city") received a request for all competitor proposals for a specified request for proposals. Although you take no position on whether the submitted information is excepted from disclosure, you state release of this information may implicate the proprietary interests of Delaware North Companies Travel Hospitality Service, Inc. ("Delaware"). Accordingly, you have notified this third party of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the submitted arguments and reviewed the submitted information.

You state the submitted information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2015-11107 (2015). In this prior ruling, we ruled the city must withhold (1) the submitted tax return information we marked under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code, (2) the information we marked under section 552.110(b) of the Government Code, (3) Creative Food Group, L.L.C.'s ("Creative") and LaTrelle's Galley, L.P.'s ("LaTrelle's") customer information under section 552.110(a) of the Government Code, and (4) routing, bank account, and insurance policy numbers we marked

under section 552.136 of the Government Code. We ordered the remaining information released in accordance with copyright law. In response to Open Records Letter No. 2015-11107, Delaware filed a lawsuit against our office. *See Delaware North Companies Travel Hospitality Services, Inc. v. Ken Paxton and the City of Houston*, No. D-1-GN-15-01994 (201st Dist. Ct., Travis County, Tex.). Accordingly, to the extent any of the information at issue in this request is at issue in the pending litigation, we will allow the trial court to resolve the issue of whether the information at issue in the pending litigation must be released to the public. As to the remaining information in Open Records Letter No. 2015-11107 that is not subject to litigation, we have no indication that there has been any change in the law, facts, or circumstances on which the previous ruling was based with regard to 4 Families of IAH, L.L.C., ATU Americas, L.L.C., Creative, Dufry NA IAH JV HG, Duty Free Americas Houston, L.L.C., H Town Coffee House Joint Venture, HG Houston Retailers JV, Hojeij Branded Foods, Inc., Host International, Inc., JDDA Houston 14, L.L.C., LaTrelle's, MRG Houston (JV), L.L.C., Paradies-Houston 2014, L.L.C., Prestige Duty Free Houston, L.L.C., SSP America, Inc., Sun IAH Airport Concessions, L.L.C., Travel Retail Group Houston, L.L.C., and WDFG North America, L.L.C. Accordingly, we conclude the city must rely on Open Records Letter No. 2015-11107 as a previous determination and withhold or release these third parties' information in accordance with Open Records Letter No. 2015-11107. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from 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,



Katelyn Blackburn-Rader
Assistant Attorney General
Open Records Division

KB-R/akg

Ref: ID# 593349

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Kevin T. Kelly
Delaware North Companies
40 Fountain Plaza
Buffalo, New York 14202
(w/o enclosures)