



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 11, 2016

Mr. Stephen D. Gates
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79701

OR2016-00824

Dear Mr. Gates:

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# 594377.

The City of Midland (the "city") received a request for a specific response to a specific request for proposals. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Clear Channel Outdoor, Inc., d/b/a Clear Channel Airports ("CCA"). Accordingly, you state, and provide documentation showing, you notified CCA of the request for information and of its right to submit arguments to this office as to why the information at issue 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 arguments from CCA. We have considered the exceptions claimed and reviewed the submitted information.

CCA claims portions of its information are excepted 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 that 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, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* Open

Records Decision 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).

CCA contends the information at issue is commercial or financial information, the release of which would cause substantial competitive harm to the company. Upon review, we find CCA has demonstrated some of the information at issue constitutes commercial or financial information, the release of which would cause the company substantial competitive injury. Accordingly, the city must withhold this information, which we have marked, under section 552.110(b) of the Government Code. However, we find CCA has not established any of the remaining information at issue constitutes commercial or financial information the disclosure of which would cause the company substantial competitive harm. *See* Gov't Code § 552.110(b). Therefore, the city may not withhold any of the remaining information at issue on this basis. The city must release the remaining information.

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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/bw

Ref: ID# 594377

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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