



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 26, 2016

Ms. Hadassah Schloss
Director of Open Government
Texas General Land Office
P.O. Box 12873
Austin, Texas 78711-2873

OR2016-04663

Dear Ms. Schloss:

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# 599796.

The Texas General Land Office (the "GLO") received a request for the current leases with the tenants in the buildings on Alamo Plaza. Although the GLO takes no position as to whether the submitted information is excepted under the Act, it states release of the submitted information may implicate the proprietary interests of Adams Extract & Spice, LLC; Alamo Plaza Shirts; Belgian Sweets, LLC; City of San Antonio Leasing Division; City Tours, Inc.; Hyatt Regency San Antonio; Mesquite Logistics USA, Inc.; N.L. Austin Association, Inc.; Phillips Entertainment, Inc. ("Phillips"); Powers Brown Architecture of Texas, LLC; SBK04, Inc.; Von Texas Restaurant Management, LLC; and Weir Capital, LLC. Accordingly, the GLO states, and provides documentation showing, it notified the third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code §§ 552.304, .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 on behalf of Phillips. We have reviewed the submitted arguments and reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from the remaining third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude the remaining third parties have a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the GLO may not withhold the submitted information on the basis of any proprietary interest the remaining third parties may have in the information.

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831, 839 (Tex. 2015). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Id.* at 841. Phillips states it has competitors. In addition, Phillips states release of the information at issue would provide an advantage to another competitor or bidder. After review of the information at issue and consideration of the arguments, we find Phillips has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the GLO may withhold the information we have marked under section 552.104(a).¹

We note the remaining information contains information subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.² Gov't Code § 552.130(a). Upon review, we find the GLO must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the GLO may withhold the information we have marked under section 552.104 of the Government Code. The GLO must withhold the motor vehicle record information we

¹As our ruling is dispositive, we need not address Phillips's remaining argument against disclosure of this information.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

have marked under section 552.130 of the Government Code. The GLO must release the remaining information.³

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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/akg

Ref: ID# 599796

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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³We note the information being released contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. See Gov't Code § 552.147(b).

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