



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 22, 2016

Mr. Frank J. Garza  
Counsel for the City of Rockwall  
Davidson Troilo Ream & Garza PC  
601 Northwest Loop 410, Suite 100  
San Antonio, Texas 78216-5511

OR2016-09065

Dear Mr. Garza:

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# 607096.

The Rockwall Economic Development Corporation (the "corporation"), which you represent, received a request for (1) all information between the corporation and the developer or end users of a specified property, and (2) all information between the City of Rockwall (the "city") and the developer or end users of a specified property. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.131 of the Government Code. You also state the release of some of this information may implicate the proprietary interests of COSTCO Wholesale Corporation. Accordingly, you state you notified the third party 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 considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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). The "test under section 552.104 is whether knowing another bidder's [or competitor's

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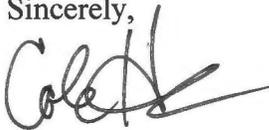
<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

information] would be an advantage, not whether it would be a decisive advantage.” *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The corporation states it has specific marketplace interests in the information at issue because the corporation is competing “against other development companies and agencies in the area” to bring private companies to the city. In addition, the corporation states release of the submitted information would “allow others to lure potential and current businesses away.” After review of the information at issue and consideration of the arguments, we find the corporation has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the corporation may withhold the submitted information under section 552.104(a).<sup>2</sup>

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](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,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/bhf

Ref: ID# 607096

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument under section 552.131 of the Government Code.