



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 25, 2016

Ms. Cathy Cunningham
Counsel for the Town of Westlake
Boyle & Lowry, LLP
4201 Wingren, Suite 108
Irving, Texas 75062-2763

OR2016-09225

Dear Ms. Cunningham:

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# 607027.

The Town of Westlake (the "town"), which you represent, received a request for information pertaining to a specified project. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.131 and 552.137 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Equity Office Properties ("Equity"). Accordingly, you state, and provide documentation showing, you notified Equity of the request for information and of its right to submit arguments to this office as to why the submitted information 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 comments from Equity. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the present request because it was created after the date of the present request. This ruling does not address the public availability of the non-responsive information, which we have marked, and the town need not release it in response to this request.

Section 552.131(b) of the Government Code provides:

...

(b) Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from [required public disclosure].

Gov't Code § 552.131(b). Section 552.131(b) protects information about a financial or other incentive offered to a business prospect by a governmental body or another person. We note section 552.131(b) is designed to protect the interests of governmental bodies, not third parties. Accordingly, we will not address Equity's arguments under section 552.131(b). However, as the town also asserts section 552.131(b) as an exception to disclosure, we will consider its applicability to the submitted responsive information. We note, however, that the applicability of section 552.131 ends once the governmental body completes an agreement with the business prospect. *Id.* § 552.131(c). You state the submitted responsive information contains economic development negotiations involving a governmental body and a business prospect and information about financial incentives being offered to that business prospect. You state the negotiations with the business prospect are ongoing. Upon review, we find the information we have marked consists of information about financial or other incentives being offered to a business prospect by the town. Accordingly, the town may withhold the information we have marked under section 552.131(b) of the Government Code. However, upon review, we find the town has not demonstrated any of the remaining responsive information consists of information about a financial or other incentive being offered to a business prospect. Consequently, none of the remaining responsive information may be withheld under section 552.131(b).

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). We note section 552.137 does not apply to an e-mail address "provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent[.]" *See id.* § 552.137(c)(2). We note the e-mail address you seek to withhold is subject to section 552.137(c)(2). Therefore, the town may not withhold the e-mail address at issue under section 552.137 of the Government Code. *See id.* § 552.137(a).

In summary, the town may withhold the information we have marked under section 552.131(b) of the Government Code. The town must release the remaining responsive 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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal flourish extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

Ref: ID# 607027

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)