



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 21, 2016

Ms. Jessica Vu  
Assistant General Counsel  
Office of Governor Greg Abbott  
P.O. Box 12428  
Austin, Texas 78711

OR2016-13625A

Dear Ms. Vu:

This office issued Open Records Letter No. 2016-13625 (2016) on June 15, 2016. We have examined this ruling and determined that an error was made in its issuance. When this office determines that an error was made in the decision process under sections 552.301 and 552.306 of the Government Code, and that error resulted in an incorrect decision, we will correct the previously issued ruling. Consequently, this decision serves as the corrected ruling and is a substitute for the decision issued on June 15, 2016. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act ("Act")).

You ask whether certain information is subject to required public disclosure under the Act. Your request was assigned ID# 626717 .

The Office of the Governor (the "governor's office") received a request for information regarding a specified corporation. You state you will withhold access device numbers pursuant to section 552.136(c) of the Government Code.<sup>1</sup> Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Kubota Tractor Corporation ("Kubota"). Accordingly, you state, and provide documentation showing, you notified Kubota 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 id.* § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits

---

<sup>1</sup>Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

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 Kubota. We have considered the submitted arguments and reviewed the submitted information.

Kubota claims a portion of its information is excepted from disclosure 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).

Kubota contends some of its information, consisting of the amount of its working capital entered on page 7 of its application, is commercial or financial information the release of which would cause substantial competitive harm. Upon review, we find Kubota has established the information at issue constitutes commercial or financial information the release of which would cause substantial competitive harm. Thus, the governor’s office must withhold the information at issue, which we marked, under section 552.110(b) of the Government Code. The remaining information must be released.

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,



Meagan J. Conway  
Assistant Attorney General  
Open Records Division

MJC/bw

Ref: ID# 626717

Enc. Submitted documents

c: Requestor  
(w/o enclosures)