



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 1, 2016

Ms. Nancy Reyes
Assistant City Attorney
San Antonio Airport System
City of San Antonio
9800 Airport Boulevard
San Antonio, Texas 78216-9990

OR2016-19800

Dear Ms. Reyes:

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# 624869 (COSA File No. W127997-062016).

The City of San Antonio (the "city") received a request for information concerning airport concessions for 2013, 2014, and 2015. You state the city has released some of the information.¹ You take no position with respect to the public availability of the submitted information. You state the proprietary interests of certain third parties, including R&J International Company ("R&J"), might be implicated, and you notified these third parties of the request and of their right to submit arguments to this office explaining why their information should not be released.² See Gov't Code § 552.305 (permitting interested third

¹The city states Firkin Pubs International Worldwide, Inc., and New Zoom, Inc., d/b/a ZoomSystems, do not object to the release of their information. HMS Host, Inc., Food & Beverage has informed this office it has no objection to the release of its information.

²The other notified third parties are: Advantage Opco, L.L.C., d/b/a Advantage Rent A Car; Alclear, L.L.C.; Avis Rent a Car Avis Budget Group; Branded Works, Inc.; Brookstone Stores, Inc.; Chelsea's Sandwiches of Texas; City Tours, Inc., d/b/a/ SuperShuttle; DTG Operations, Inc., d/b/a Dollar Rent A Car and Thrifty Car Rentals; Duty Free Americas; EAN Holdings, d/b/a Alamo, National, and Enterprise Car Rental; Edwin Enterprises; Goodfellows Shoeshine; Green Beans Coffee Company; The Hertz Corporation; Interspace Airport Advertising; LS Travel Retail North America; Melshire DFW, L.P.; Never Too Late

party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from R&J. We have considered the exceptions it has raised and reviewed the submitted information.

We understand the city has asked the requestor to clarify a portion of the request. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). We understand the city has not received a response to the request for clarification. Accordingly, the city is not required to release information in response to the portion of a request for which it sought, but did not receive, clarification. If the requestor clarifies or narrows this portion of the request for information, then the city must seek a ruling from this office before withholding any responsive information from the requestor. *See* Gov't Code § 552.222; *City of Dallas*, 304 S.W.3d at 387.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments against disclosure from any other third party. Accordingly, the remaining third parties have not demonstrated they have a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interests the remaining third parties may have in the information.

R&J raises sections 552.101, 552.104, 552.105, 552.110, 552.128, and 552.131 of the Government Code. However, R&J does not provide any arguments to support its assertion of these exceptions. *See* Gov't Code § 552.305(d). Accordingly, we have no basis for determining R&J's information is excepted from required disclosure. As no other exceptions to disclosure are raised, the city must release the submitted information.

Business Center, L.L.C.; Project Horizon, Inc.; R&J International Company ("R&J"); Satrac, Inc., d/b/a/Budget Rent a Car; Seven Hills, Inc.; Smarte Carte, Inc.; Taste, Inc.; and WDFG North America, L.L.C.;

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 624869

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Parties
(w/o enclosures)