



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 8, 2016

Mr. Mark Fenner  
General Counsel  
Texas Racing Commission  
P.O. Box 12080  
Austin, Texas 78711-2080

OR2016-02992

Dear Mr. Fenner:

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# 597485.

The Texas Racing Commission (the "commission") received a request for specified financial statements of three named companies.<sup>1</sup> You state you have released most of the requested information to the requestor. Although the commission takes no position with respect to the public availability of the remaining responsive information, you state release of this

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<sup>1</sup>We note the commission received clarification of the information requested. *See* Gov't Code § 552.222 (providing 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 over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

information may implicate the proprietary interests of Gulf Coast Racing, L.L.C. (“Gulf Coast Racing”). Accordingly, you state, and provide documentation showing, the commission notified Gulf Coast Racing of the request and of the company’s 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) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under Act in certain circumstances). We have received correspondence from Gulf Coast Racing. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>2</sup>

Gulf Coast Racing claims the submitted 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.* § 552.110(b); Open Records Decision No. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence that release of information would cause it substantial competitive harm).

Gulf Coast Racing contends the submitted information is commercial or financial information, release of which would cause the company substantial competitive harm. Upon review, we find that Gulf Coast Racing has established that its submitted financial statement constitutes commercial or financial information, the release of which would cause the company substantial competitive harm. Thus, the commission must withhold the submitted information under section 552.110(b) of the Government Code.

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

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<sup>2</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 those records contain substantially different types of information than that submitted to this office.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Katelyn Blackburn-Rader  
Assistant Attorney General  
Open Records Division

KB-R/bw

Ref: ID# 597485

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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