



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 15, 2016

Ms. Ana Vieira Ayala
Senior Attorney & Public Information Coordinator
Office of General Counsel
201 West 7th Street, Suite 600
Austin, Texas 78701-2901

OR2016-18407

Dear Ms. Ayala:

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# 622530 (OGC# 169866).

The University of Texas at El Paso (the "university") received a request for eight categories of information related to a specified building.¹ You state you have released a majority of the information to the requestor. Although you take no position with respect to the public availability of the submitted information, you state the interests of a third party might be implicated. Accordingly, you inform us, and provide documentation showing, you notified Ticketmaster Corporation ("Ticketmaster") of the request and of its right to submit comments to this office as to why the submitted information should not be released to the requestor. *See Gov't Code* § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested

¹The university states it sought and received clarification of a portion of the request. *See Gov't Code* § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the 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 public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We have reviewed the submitted information.

Initially, you state the submitted information was previously released in response to a previous request for information, as a result of which this office issued Open Records Letter No. 2016-05930 (2016). Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold that exact information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *See Gov't Code* § 552.007; Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988). Accordingly, pursuant to section 552.007, the university may not now withhold any previously released information unless its release is expressly prohibited by law or the information is confidential under law. *See Open Records Decision No. 400 (1983)* (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). However, because third party interests can provide a compelling reason against disclosure, we will consider whether the submitted information may be withheld based on the interests of Ticketmaster.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. *See Gov't Code* § 552.305(d)(2)(B). As of the date of this letter, this office has not received comments from Ticketmaster explaining why its information should not be released to the requestor. Therefore, we have no basis to conclude the third party vendor has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise claiming exception for commercial or financial information under section 552.110(b) must show by specific factual evidence release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the university may not withhold the submitted information on the basis of the proprietary interest Ticketmaster may have in the information. As no exceptions to disclosure have been raised, the submitted 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, 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 "Kavid Singh".

Kavid Singh
Assistant Attorney General
Open Records Division

KVS/bhf

Ref: ID# 622530

Enc. Submitted documents

c: Requestor
(w/o enclosures)