



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 7, 2017

Ms. Christine Huber  
Administrative Assistant  
Texas Historical Commission  
P.O. Box 12276  
Austin, Texas 78711-2276

OR2017-17732

Dear Ms. Huber:

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# 670592.

The Texas Historical Commission (the "commission") received a request for information pertaining to applications for a specified program during a certain time period. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the interests of certain individuals and third parties. Accordingly, you state, and provide documentation showing, you notified the individuals and third parties at issue of the request and their rights to submit arguments to this office.<sup>1</sup> See Gov't Code §§ 552.304 (providing that interested party may submit written comments

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<sup>1</sup>As of the date of this letter, we have not received comments from the named individuals. The commission notified the following third parties: Archdiocese of San Antonio; Baker Katz Management; Behind the Curtain LLC; Blackshear/O. L. Price Alumni Association; Bryan Texana Foundation; Cabbage, Ltd.; Cleopatra Investments, Ltd.; DJ Realty Investments, LLC; Eagle Ford Investments and Advisors, LLC; East Street 109, LLC; ELK Tractors and Equipment, Inc.; First Presbyterian Church Dallas; FKM Partnership; Guadalupe Economic Services Corp.; Historic Fort Worth, Inc.; Heights Theater, LLC; Hixon Properties Inc.; JMDM Property, LLC; KLMK Properties LLC; Medical Towers Sub, LLC; Mollard Properties, Ltd.; the Mott Family Trust; MW Emporium, LLC; New Commerce Partners, LP and Prana GP, LLC; New Rivercenter Mall, LP; Old Blanco County Courthouse Preservation Society; PetroCorrigan Tower, LP; Ramila & Dhani, LLC; Recnad2, LLC; the River Pierce Foundation; RTGS Development, LP; Sampson Lofts, LLC; Six Hundred Building, Ltd.; Smothers General Investment Company, Inc.; and Supreme Bright Dallas II, LLC.

regarding why information should or should not be released), .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 reviewed the submitted information.<sup>2</sup>

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 ruling, we have not received comments from any of the third parties. Thus, we have no basis to conclude any of the third parties have a protected proprietary interest in 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 commission may not withhold any of the submitted information on the basis of any proprietary interest a third party may have in the information.

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).<sup>3</sup> Gov't Code § 552.137(a)-(c). The e-mail addresses at issue are not a type specifically excluded by section 552.137(c) of the Government Code. Accordingly, the commission must withhold the e-mail addresses we marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure. As we have received no arguments against disclosure, 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/>

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<sup>2</sup>We note the commission did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, because third party interests are at stake, we will consider whether the submitted information must be withheld under the Act based on third party interests. *See id.* §§ 552.001, .302, .352.

<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

[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 that reads "Emily Kunst". The signature is written in a cursive, flowing style.

Emily Kunst  
Attorney  
Open Records Division

EK/eb

Ref: ID# 670592

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

40 Third Parties  
(w/o enclosures)