



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 18, 2017

Ms. Karen Kennard  
Counsel for Austin Convention and Visitors Bureau d/b/a Visit Austin  
Greenberg Traurig, LLP  
300 West 6th Street, Suite 2050  
Austin, Texas 78701

OR2017-18835

Dear Ms. Kennard:

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# 672532.

The Austin Convention and Visitors Bureau d/b/a Visit Austin (the "bureau") received a request for e-mails sent to or from a bureau employee and seven categories of information, including information pertaining to a specified contract, specified meetings, and named entities.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.104 and 552.110 of the Government Code. Further, you state release of this information may implicate the proprietary interests of Belmont Icehouse. Accordingly, you state, and provide documentation showing, you notified Belmont Icehouse of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released. *See Gov't Code* § 552.305(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

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<sup>1</sup>We note the bureau sought and received clarification of the information requested. *See Gov't Code* § 552.222(b) (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).

circumstances). We have considered the exceptions you claim and reviewed the submitted information.<sup>2</sup>

Initially, we note some of the submitted information consists of the minutes of meetings of the bureau's Board of Directors. The minutes of a governmental body's public meetings are specifically made public under the Open Meetings Act (the "OMA"), chapter 551 of the Government Code. *See* Gov't Code §§ 551.022 (minutes of open meeting are public records and shall be available for public inspection). Although you seek to withhold this information under sections 552.104 and 552.110 of the Government Code, as a general rule, the exceptions to disclosure found in the Act do not apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, the meeting minutes must be released pursuant to the OMA.

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Id.* at 841. The bureau asserts it has specific marketplace interests in the information at issue because it competes with other convention and visitors bureaus across the country to attract conventions and tourism to the City of Austin. The bureau asserts release of the information at issue would give advantage to competitors of the bureau. After review of the information at issue and consideration of the arguments, we find the bureau has established the release of the information it marked would give advantage to a competitor or bidder. Thus, we conclude the bureau may withhold the remaining information it seeks to withhold under section 552.104(a).<sup>3</sup>

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>4</sup> *See* Gov't Code § 552.137(a)-(c). Section 552.137 does not apply to an institutional e-mail address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, an e-mail address of a vendor who seeks to contract with a governmental body, an e-mail address maintained by a governmental entity for one

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<sup>2</sup>The bureau informs us Belmont Icehouse does not object to release of its information.

<sup>3</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

<sup>4</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).

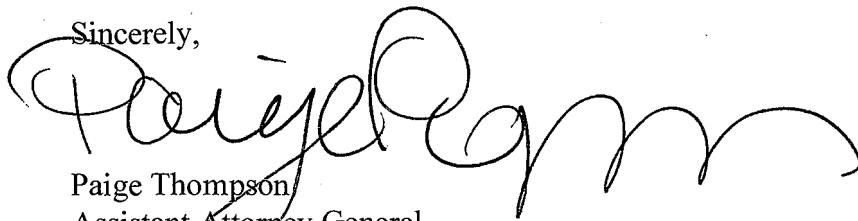
of its officials or employees, or an e-mail address provided to a governmental body on a letterhead. *See id.* § 552.137(c). Upon review, we find the bureau must withhold the e-mail addresses in the remaining information under section 552.137 of the Government Code, unless their owners affirmatively consent to their public disclosure or subsection (c) applies.

In summary, the bureau must release the submitted meeting minutes pursuant to the OMA. The bureau may withhold the remaining information it seeks to withhold under section 552.104(a) of the Government Code. The bureau must withhold the e-mail addresses in the remaining information under section 552.137 of the Government Code, unless their owners affirmatively consent to their public disclosure or subsection (c) applies. The bureau must release the remaining information.

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,



Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/eb

Ref: ID# 672532

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)