



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 5, 2017

Ms. June B. Harden  
Assistant Attorney General  
Assistant Public Information Coordinator  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2017-20272

Dear Ms. Harden:

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# 673839 (PIR No. 17-46936).

The Office of the Attorney General (the "OAG") received a request for eight categories of information pertaining to a specified investigation into a named company. The OAG states it will release most of the responsive information. The OAG claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

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<sup>1</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 that those records contain substantially different types of information than that submitted to this office.

Code § 552.101. Section 552.101 encompasses information another statute makes confidential. Section 17.61(f) of the Business and Commerce Code provides, in part:

(f) No documentary material produced pursuant to a demand under this section, unless otherwise ordered by a court for good cause shown, shall be produced for inspection or copying by, nor shall its contents be disclosed to any person other than the authorized employee of the [OAG] without the consent of the person who produced the material. The [OAG] shall prescribe reasonable terms and conditions allowing the documentary material to be available for inspection and copying by the person who produced the material or any duly authorized representative of that person.

Bus. & Com. Code § 17.61(f). This provision requires the OAG to generally withhold from required public disclosure all documentary material the OAG obtained pursuant to a Civil Investigative Demand (“CID”). The OAG explains its Consumer Protection Division issued CIDs to certain entities under section 17.61(a) of the Business and Commerce Code. The OAG informs us the entities complied by providing the submitted information to the OAG. Thus, we agree the submitted information is generally confidential under section 17.61(f). However, section 17.61(f) provides for the release of the documentary material provided in response to a CID to the person who produced the material or any duly authorized representative of that person. *See id.* We note the requestor is an attorney for ADT LLC (“ADT”) and ADT submitted materials to the OAG in response to a CID. Accordingly, we conclude the responsive CID materials submitted to the OAG by ADT must be released to this requestor. *See generally* Open Records Decision Nos. 544 (1990), 378 (1983) (concluding that information specifically made public by statute may not be withheld from public by an of the Act’s exceptions to public disclosure). However, the OAG must withhold the remaining information, which was not submitted to the OAG by ADT, under section 552.101 of the Government Code in conjunction with section 17.61(f) of the Business and Commerce Code.<sup>2</sup>

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 requestor has a special right of access to some of the information being released in this instance. *See* Bus. & Com. Code § 17.61(f). Because such information is confidential with respect to the general public, if the OAG receives another request for this information from a different requestor, then the OAG should again seek a ruling from this office.

[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 "Paige Thompson". The signature is fluid and cursive, with a large initial "P" and a long, sweeping tail.

Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/eb

Ref: ID# 673839

Enc. Submitted documents

c: Requestor  
(w/o enclosures)