



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 28, 2019

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
450 Cypress Creek Road
Cedar Park, Texas 78613

OR2019-02421

Dear Ms. Quinn:

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# 747695 (Ref. No CS 19-024).

The City of Cedar Park (the "city") received a request for information pertaining to a specified assessment. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Southwest Leadership Resources LLC ("Southwest"). Accordingly, you state, and provide documentation showing, you notified Southwest of the request and its right to submit arguments to this office. *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 circumstances). We have considered the submitted information.

Generally, the Act authorizes the Office of the Attorney General to render decisions and opinions in two situations. The first occurs when a governmental body receives a written

request for information from an individual or entity acting as a member of the public and requests a ruling from this office because the governmental body wishes to withhold responsive information in accordance with one of the Act's exceptions to disclosure. *See id.* §§ 552.301, .306. The second situation occurs when this office issues "materials, including detailed and comprehensive written decisions and opinions, that relate to or are based on [the Act]" in order to "maintain uniformity in the application, operation, and interpretation of [the Act.]" *Id.* § 552.011.

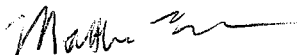
You state the city has released some of the requested information. We understand the city to assert the remaining requested information is not "public information" subject to the Act. Section 552.002 of the Act provides "public information" subject to the Act consists of information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). Thus, virtually all information that is in a governmental body's physical possession constitutes public information that is subject to the Act. *Id.* § 552.002(a)(1); *see also* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information that a governmental body does not physically possess, if the information is collected, assembled, or maintained for the governmental body, and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2); *see* Open Records Decision No. 462 at 4 (1987). The city submitted documentation revealing it does not own or have a right of access to the remaining requested information and that this information is created and maintained by the Cedar Park Police Association. Based on the submitted documentation and our review, we find the remaining requested information is not subject to the Act and need not be released in response to the instant request. Accordingly, because this situation falls outside of the Act and beyond the

scope of this office's authority to render a decision, we consider this matter closed. If you have any questions with regard to this letter, please refer to ID# 747695.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Taylor", with a long horizontal flourish extending to the right.

Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/mo

Ref: ID# 747695

Enc. Submitted documents

c: Requestor
(w/o enclosures)