



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 5, 2019

Mr. Mark Triesch  
Assistant City Attorney  
City of San Antonio  
9800 Airport Boulevard  
San Antonio, Texas 78216-9990

OR2019-03348

Dear Mr. Triesch:

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# 750820 (COSA File No. W240499-112018).

The City of San Antonio (the "city") received a request for information pertaining to specified construction plans. You state the city has released some information. Although the city takes no position as to whether the submitted information is excepted under the Act, the city states release of the submitted information may implicate the proprietary interests of Western LLC ("Western"). Accordingly, the city states, and provides documentation showing, it notified Western of the request for information and of the right to submit arguments to this office as to why the submitted information 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 circumstances). We have received comments from Western.<sup>1</sup> We have reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>We note Western submitted briefing to this office in which it set forth its concern that some of the information at issue might implicate sections 552.104, 552.110, and 552.131 of the Government Code, and informed us Western would "respond more fully and specifically once [they] have an opportunity to review the documents." However, we have received no further correspondence from Western making arguments to support these exceptions. Therefore, we assume Western has withdrawn its claim these sections apply to the submitted information. *See* Gov't Code § 552.305

<sup>2</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 those records contain substantially different types of information than that submitted to this office.

Initially, we note the requestor has agreed to exclude from the request “all security sensitive information as well as client names and contact information.” Thus, any such information is not responsive to the instant request and need not be released.

Some of the submitted information may be subject to section 552.117 of the Government Code.<sup>3</sup> Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See Gov't Code § 552.117(a)(1)*. We note section 552.117 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See Open Records Decision No. 506 at 5-6 (1988)* (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See Open Records Decision No. 530 at 5 (1989)*. Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee or official who did not timely request under section 552.024 the information be kept confidential. Therefore, to the extent the individual whose information is at issue timely requested confidentiality under section 552.024 of the Government Code, the city must withhold the information we have marked under section 552.117(a)(1) of the Government Code; however, the marked cellular telephone number may be withheld only if a governmental body does not pay for the cellular telephone service. Conversely, to the extent the individual at issue did not timely request confidentiality under section 552.024, the city may not withhold the marked information under section 552.117(a)(1). As no further exceptions to disclosure are raised, the city must release the remaining responsive 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.

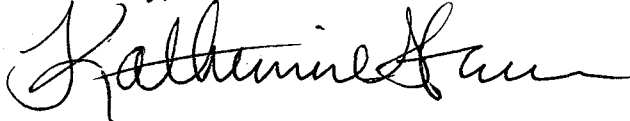
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<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)*.

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 "Katherine Stark", written in a cursive style.

Katherine Stark  
Attorney  
Open Records Division

KS/eb

Ref: ID# 750820

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third party  
(w/o enclosures)