



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 28, 2019

Mr. Brendan Hall
Attorney for Development Corporation of Harlingen, Incorporated
Law Offices of Brendan Hall
3732 Cheyenne Street
Round Rock, Texas 78551

OR2019-05615

Dear Mr. Hall:

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# 756242.

The Harlingen Economic Development Corporation (the "corporation"), which you represent, received a request for rental lease payment information pertaining to a specified company during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.104, 552.110, and 552.131 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of Bass Pro Outdoor World, L.L.C. ("Bass Pro"). Accordingly, we understand you notified Bass Pro 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 circumstances). We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

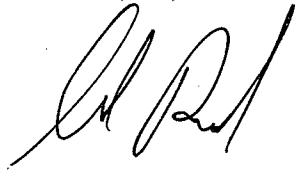
¹We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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). 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.” *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). You state the corporation has specific marketplace interests in the information at issue because the corporation is competing with other communities to attract and encourage long term business growth in Harlingen. You argue release of the submitted information would give other communities in competition with the corporation a competitive advantage in future negotiations. After review of the information at issue and consideration of the arguments, we find you have established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the corporation may withhold the submitted information under section 552.104(a) of the Government Code.²

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, 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,



Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/jxd

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Ref: ID# 756242

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)