



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

March 19, 2019

Ms. Tiffany N. Evans  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2019-07644

Dear Ms. Evans:

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# 756566 (GC No. 25707).

The City of Houston (the "city") received a request for information pertaining to a specified golf course and tournament. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of this information may implicate the proprietary interests of RBC Heritage ("RBC") and Valspar Championship ("Valspar"). Accordingly, you state, and provide documentation showing, you notified the interested third party 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 received comments from RBC stating it does not object to the release of its information. We have also received comments from Valspar. We have considered the submitted arguments and reviewed the submitted information.

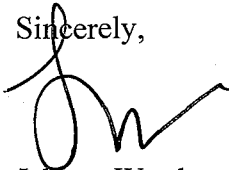
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). You represent the submitted information pertains to an ongoing competitive bidding process related to the proposed development of a golf course and tournament. You inform us that, as of the date of the request, negotiations between the parties were ongoing and a final agreement had not yet been approved by the city

council and release of the submitted information “would harm the [c]ity’s attempts to obtain the best offer and conditions . . . by providing competing parties [with a] competitive advantage of knowing what the [c]ity will accept, what it will concede, and its plan for achieving its objectives for the proposed development of the golf course and tournament.” Further, you argue release of the information “would also jeopardize other future negotiations by placing the [c]ity in a disadvantaged position before discussions have commenced.” After reviewing the submitted information and considering your arguments, we find the city has established the release of the submitted information would give advantage to a competitor or bidder. Accordingly, we conclude the city may withhold the submitted information under section 552.104(a) of the Government Code.<sup>1</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/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,



Jahna Ward  
Assistant Attorney General  
Open Records Division

JW/eb

Ref: ID# 756566

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.