



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 15, 2019

Mr. Eric C. Farrar
Counsel for the City of Dickinson
Olson & Olson, L. L. P.
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019-2133

OR2019-10075

Dear Ms. Farrar:

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# 759265 (ORR# COD19-005).

The City of Dickinson (the "city"), which you represent, received a request for information pertaining to a specified address.¹ The city does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, the city states, and provides documentation showing, it notified the Whataburger Construction Division ("Whataburger") of the city's receipt of the request for information and of Whataburger's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why


¹The city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

requested information relating to it should be withheld from disclosure. See Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Whataburger has not submitted to this office any reasons explaining why the requested information should not be released. Accordingly, we have no basis for concluding the submitted information constitutes proprietary information of that third party, and the city may not withhold any portion of it on that basis. See Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Therefore, the city must release the submitted 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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jxd

Ref: ID# 759265

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)