



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 28, 2019

Ms. Lauren Downey
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2019-14088

Dear Ms. Downey:

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# 765887 (PIR No. R000535).

The Office of the Attorney General (the "OAG") received a request for information pertaining to a specified investigation involving three named companies during a designated time period, information pertaining to two specified lawsuits during a designated time period, and information provided to the OAG by several named companies and several named individuals during a designated time period. The OAG states it will release some information with redactions made pursuant to section 552.024(c) of the Government Code and Open Records Decision No. 684 (2009).¹ Further, the OAG states it will continue to rely on Open Records Letter No. 2018-30183 (2018) with respect to some of the requested

¹Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. *See* Gov't Code § 552.024(c)(2). If a governmental body redacts such information, it must notify the requestor in accordance with subsections 552.024(c-1) and (c-2). *See id.* § 552.024(c-1)-(c-2). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

information.² The OAG claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.³

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information other statutes make confidential. The OAG raises section 15.10(i)(1) of the Business and Commerce Code, which reads as follows:

(1) Except as provided in this section or ordered by a court for good cause shown, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies or contents thereof, shall be available for examination or used by any person without the consent of the person who produced the material, answers, or testimony and, in the case of any product of discovery, of the person from whom the discovery was obtained.

Bus. & Com. Code § 15.10(i)(1). The OAG explains section 15.10(b) of the Business and Commerce Code authorizes the OAG to issue a Civil Investigative Demand (“CID”) when the attorney general has reason to believe any person may be in possession, custody, or control of any documentary material or may have information relevant to a civil antitrust investigation. *Id.* § 15.10(b). The OAG asserts the information at issue consists of information provided to the OAG in response to CIDs issued by the OAG’s Antitrust Division. The OAG represents none of the permitted disclosures in section 15.10(i) apply in this instance. After review of the information at issue and consideration of the OAG’s arguments, we agree the OAG must withhold the information it marked under section 552.101 of the Government Code in conjunction with section 15.10(i)(1) of the Business and Commerce Code. As the OAG raises no exception for the remaining information, the OAG must release it.

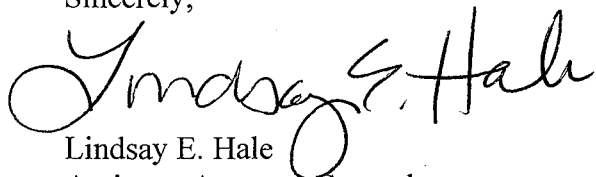
²In Open Records Letter No. 2018-30183, this office determined the OAG must withhold the information it marked under section 552.101 of the Government Code in conjunction with section 15.10(i)(1) of the Business and Commerce Code and must release the remaining information at issue. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure).

³We 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.

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,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive style with a large, looping initial "L".

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LH/eb

Ref: ID# 765887

Enc. Submitted documents

c: Requestor
(w/o enclosures)