



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 16, 2019

Ms. Alicia K. Kreh
Counsel for the Town of Flower Mound
Taylor, Olson, Adkins, Sralla & Elam, L. L. P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2019-19248

Dear Ms. Kreh:

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# 775544.

The Town of Flower Mound (the "town"), which you represent, received two requests from different requestors for information pertaining to a specified request for proposals. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Perdue Brandon Fielder Collins & Mott, LLP ("Perdue Brandon") and Sawko & Burroughs, P.C. ("S&B"). Accordingly, you state, and provide documentation showing, the town notified these third parties of the request for information and of their 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 S&B. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note 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 information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Perdue Brandon explaining why the submitted information should not be released. Therefore, we have no basis to conclude Perdue Brandon has a protected proprietary interest in the submitted information. *See id.* § 552.110; 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. Accordingly, the town may not withhold any of the submitted information on the basis of any proprietary interest Perdue Brandon may have in it.

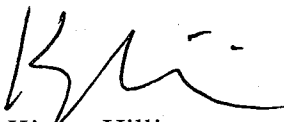
S&B claims some of its information is excepted from disclosure under section 552.110 of the Government Code. Section 552.110(b) protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* ORD 661 at 5.

S&B asserts portions of its information consist of commercial information, the release of which would cause the company substantial competitive harm under section 552.110(b) of the Government Code. Upon review, we find S&B has not established any of the information at issue constitutes commercial or financial information the disclosure of which would cause the company substantial competitive injury. *See* Gov’t Code § 552.110(b). Therefore, the town may not withhold any of the submitted information on this basis. Accordingly, the town 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,



Kiefan Hillis
Assistant Attorney General
Open Records Division

KH/jxd

Ref: ID# 775544

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

Third Party
(w/o enclosures)