



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 25, 2019

Ms. Kristen L. Hamilton-Karam  
Assistant City Attorney  
City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2019-26874

Dear Ms. Hamilton-Karam:

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# 787440 (City's Case No. 19-1003-1004).

The City of El Paso (the "city") received a request for the current advertising concession contract and the monthly revenue reports pertaining to the current airport concessionaire for a specified time period.<sup>1</sup> The city states it will release some of the requested information upon payment of costs. Although we understand the city takes no position as to whether the submitted information is excepted under the Act, the city states release of the submitted information may implicate the proprietary interests of Clear Channel Airports ("CCA"). Accordingly, the city states, and provides documentation showing, it notified this third party of the request for information and of the 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

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<sup>1</sup> The city provides documentation showing it sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing 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) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

of exception in the Act in certain circumstances). We have received comments from CCA. We have reviewed the submitted arguments and the submitted information.

CCA raises section 552.110(b) of the Government Code, which 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 Open Records Decision No. 661 at 5 (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).

CCA argues the information it indicated consists of commercial and financial information, the release of which would cause the company substantial competitive harm. Upon review, we find CCA has demonstrated the information it indicated, which includes its client information, consists of commercial or financial information, the disclosure of which would cause the company substantial competitive harm. Thus, the city must withhold the information at issue, which we have marked and indicated, under section 552.110(b) of the Government Code; however, CCA’s client information may not be withheld under section 552.110(b) if the client information is publicly available on CCA’s website. As no further exceptions to disclosure are raised, the city must release the remaining 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Pearlie Gault  
Attorney  
Open Records Division

PG/eb

Ref: ID# 787440

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)