



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 17, 2019

Ms. Susan Camp-Lee  
Counsel for the City of Round Rock  
Sheets & Crossfield, PLLC  
309 East Main Street  
Round Rock, Texas 78664-5246

OR2019-35669

Dear Ms. Camp-Lee:

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# 802039 (ORR# W010639-093019).

The City of Round Rock (the "city"), which you represent, received a request for any documents related to Shoot Point Blank ("Shoot Point"). Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Shoot Point. Accordingly, you state, and provide documentation showing, you notified Shoot Point of the request for information and of its 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 Shoot Point. 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). In considering whether a private third party may assert this exception, the supreme court reasoned because section 552.305(a) of the Government Code includes section 552.104 as an example of an exception that involves a third party's property interest, a private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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." *Id.* at 841. Shoot Point states it has competitors. In addition, Shoot Point states release of its information would provide an advantage to its competitors. After review of the information

at issue and consideration of the arguments, we find Shoot Point has established the release of its information would give advantage to a competitor or bidder. Thus, 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 <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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/be

Ref: ID# 802039

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

1 Third Party  
(w/o enclosures)

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