



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 6, 2020

Ms. Dana Stayton  
Counsel for Trail Drive Management Corporation  
Kelly Hart & Hallman LLP  
201 Main Street, Suite 2500  
Fort Worth, Texas 76102

OR2020-07079

Dear Ms. Stayton and Mr. Weber:

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# 814975.

The Trail Drive Management Corporation (the "corporation"), which you represent, received a request for specified surveillance footage. You claim the corporation is not a governmental body subject to the Act. Alternatively, you claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have also received and considered comments from a representative of the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

You assert the corporation is not a governmental body pursuant to section 552.003(1)(A)(xii) of the Government Code, and, therefore, it is not subject to the Act. Section 552.003(1)(A)(xii) defines "governmental body", in pertinent part, as:

the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds[.]

*Id.* § 552.003(1)(A)(xii). "Public funds" means "funds of the state or of a governmental subdivision of the state." *Id.* § 552.003(5). The Texas Supreme Court has defined "'supported in whole or part by public funds' to include only those private entities or their

sub-parts sustained, at least in part, by public funds, meaning they could not perform the same or similar services without the public funds.” *Greater Houston P’ship v. Paxton*, 468 S.W.3d 51, 63 (Tex. 2015). Thus, section 552.003(1)(A)(xii) encompasses only those private entities that are dependent on public funds to operate as a going concern, *see id.* at 61, and only those entities acting as the functional equivalent of the government, *see id.* at 62.

You state the corporation is a non-profit section 501(c)(3) corporation that operates the Dickies Arena (the “arena”), a multipurpose arena. You state the corporation has a lease agreement with the City of Fort Worth (the “city”) for “identifiable, measurable, and specific services to manage and operate [the arena] pursuant to an arms-length contract.” Further, you state the corporation “does not spend or receive any public funds in its lease, management, or operation of the arena” and “is a self-sustaining entity.” The corporation explains its receipts are generated from its management and operation of the arena, and includes admission ticket revenue, all parking fees, concessions, and other sources of revenue the corporation has the full right to collect pursuant to the lease agreement and does not receive any compensation from the city. Additionally, you state the corporation does not make decisions for the city and is not the functional equivalent of a governmental body. Based upon your representations and our review, we find the corporation is not sustained by public funds for purposes of the Act. *See id.* at 63. Consequently, the corporation does not fall within the definition of a “governmental body” under section 552.003(1)(A)(xii) of the Government Code and is not subject to the Act. Accordingly, the corporation need not respond to the request for information.<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,



D. Michelle Case  
Assistant Attorney General  
Open Records Division

DMC/mo

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<sup>1</sup> As we are able to make this determination, we do not address your remaining argument.

Ref: ID# 814975

Enc. Submitted documents

c: Requestor  
(w/o enclosures)