



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 17, 2020

Mr. Joseph G. Hays
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2020-17830

Dear Mr. Hays:

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# 836154 (GC No. 26579).

The City of Houston (the "city") received a request for all communications between certain city officials and representatives of three specified entities that include specified terms during a stated period of time. You state the city has released some information to the requestor. Although you take no position regarding whether the submitted information is excepted from disclosure, you state release of the information at issue may implicate the proprietary interests of EcoLab, HMS Host, and OTG.¹ Accordingly, you state, and provide documentation demonstrating, the city notified these interested 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 reviewed the submitted information.

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

¹ We note, and you acknowledge the city did not comply with the procedural requirements of section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, third party interests can provide a compelling reason to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302; Open Records Decision No. 150 at 2 (1977). Thus, we will consider whether the information at issue is excepted from disclosure under the Act.

from any of the interested third parties explaining why the information at issue should not be released. Thus, we have no basis to conclude any of the third parties have a protected proprietary interest in the information at issue. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Therefore, the city may not withhold any portion of the submitted information on the basis of any proprietary interest the third parties may have in it. As no exceptions to disclosure have been raised, the city 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 <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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/jxd

Ref: ID# 836154

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 3 Third Parties
(w/o enclosures)