



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 16, 2020

Mr. Kieran Hillis
Public Information Coordinator and Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2020-23412

Dear Mr. Hillis:

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# 845601 (OOG ID# 376-20).

The Office of the Governor (the "governor's office") received a request for correspondence pertaining to NASCAR, Texas Motor Speedway, and an upcoming cup series race during a certain time period. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Texas Motor Speedway, L.L.C. and the City of Fort Worth. Accordingly, you state, and provide documentation showing, you notified the interested third parties of the request and of their right to submit arguments to this office. *See* Gov't Code §§ 552.304, .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 to submit its reasons, if any, as to why info relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from the interested third parties. Thus, we have no basis to conclude a third party has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the governor's office may not withhold any of the submitted information on the basis of any proprietary interest a third party may have in the information.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).¹ *Id.* § 552.137(a)-(c). Accordingly, to the extent the e-mail addresses are not subject to subsection (c), the governor’s office must withhold the e-mail addresses in the submitted information under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure. The governor’s office 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,

Emily Kunst
Assistant Attorney General
Open Records Division

EK/rm

Ref: ID# 845601

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).