



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 7, 2020

Mr. Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

OR2020-25256

Dear Mr. Martinez:

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# 848527 (PIR No. 20-54379).

The Texas Commission on Environmental Quality (the "commission") received a request for project files for pending air permit applications regarding a named entity's specified facilities.<sup>1</sup> The commission states it has made some information available to the requestor. Although the commission takes no position regarding whether the submitted information is excepted from disclosure under the Act, the commission informs us its release may implicate the proprietary interests of Exxon Mobil Corporation ("ExxonMobil"). Accordingly, the commission states, and provides documentation showing, it notified ExxonMobil of the request for information and of its right to submit arguments to this office. *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

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<sup>1</sup> We understand the commission 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).

circumstances). We have received comments from ExxonMobil. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note ExxonMobil argues against disclosure of information not submitted to this office for review. This ruling does not address information beyond what the commission has submitted to us for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Accordingly, this ruling is limited to the information the commission submitted as responsive to the request for information.

Section 552.110(c) of the Government Code excepts from disclosure “commercial 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[.]” *Id.* § 552.110(c). ExxonMobil argues some of its information consists of commercial or financial information subject to section 552.110(c). Upon review, we find ExxonMobil has demonstrated the information it indicated constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the commission must withhold the information we marked under section 552.110(c) of the Government Code.<sup>2</sup> The commission 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,

James M. Graham  
Assistant Attorney General  
Open Records Division

JMG/mo

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<sup>2</sup> As our ruling is dispositive, we need not address ExxonMobil's remaining arguments against disclosure of this information.

Ref: ID# 848527

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

cc: Third Party  
(w/o enclosures)