



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 6, 2020

Mr. Brandon Dyson
Assistant City Attorney
City of San Angelo
72 West College Avenue
San Angelo, Texas 76903

OR2020-27963

Dear Mr. Dyson:

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# 852823 (ORR R002941-081720).

The City of San Angelo (the "city") received a request for three categories of information pertaining to a specified agreement. You indicate the city does not have information responsive to portions of the request.¹ Although the city takes no position as to whether the submitted information is excepted under the Act, the city states release of the submitted information may implicate the interests of the City of Midland ("Midland") and Fort Stockton Holdings L.P. ("FSH"). Accordingly, the city states, and provides documentation showing, it notified these parties of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code §§ 552.304 (providing interested party may submit comments stating why information should or should not be released), .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.

¹ The Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. *See Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

We note 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) of the Government Code 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 from Midland nor FSH explaining why the submitted information should not be released. Therefore, we have no basis to conclude either 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 city may not withhold any portion of the submitted information on the basis of any proprietary interest Midland or FSH may have in the information. As no exceptions to disclosure have been raised for the submitted information, the city must release it.

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,

Michelle Garza
Assistant Attorney General
Open Records Division

MRG/jxd

Ref: ID# 852823

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 2 Third Parties
(w/o enclosures)