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ATTORNEY GENERAL OF TEXAS

November 25, 2020

Mr. Victor M. Cristales
Counsel for the City of Wylie
Abernathy, Roeder, Boyd, & Hullett, P.C.
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75070-1210

OR2020-29483

Dear Mr. Cristales:

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# 856894.

The City of Wylie (the "city"), which you represent, received a request for a specified "general ledger." The city claims some of the submitted information is excepted from disclosure under section 552.131 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.¹

The city acknowledges, and we agree, it did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b), (e). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Because section 552.131(a) of the Government Code can provide a compelling reason to overcome the presumption of openness, we will address the applicability of this section to the submitted information. However, we find the city has failed to establish a compelling reason to address its claims under section 552.131(b) of the Government Code.

Section 552.131(a) relates to economic development information and provides as follows:

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(a) Information is excepted from [required public disclosure] if the information relates to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to:

(1) a trade secret of the business prospect; or

(2) 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.

Gov't Code § 552.131(a). Section 552.131(a) only protects the proprietary interests of third parties that have provided information to governmental bodies, not the interests of governmental bodies themselves. No third party asserts any of the submitted information constitutes a trade secret or the release would cause a third party substantial competitive harm. *See generally* Open Records Decision Nos. 661 at 5–6 (1999), 552 at 5 (1990). Therefore, the city may not withhold any of the submitted information under section 552.131(a) of the Government Code. Accordingly, 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/rm

Ref: ID# 856894

Enc. Submitted documents

c: Requestor
(w/o enclosures)