



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 7, 2020

Mr. Jonathan Miles
Open Records Attorney
Texas Health and Human Services Commission
Mail Code 1100
P.O. Box 13247
Austin, Texas 78711-3247

OR2020-30467

Dear Mr. Miles:

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# 856681 (DSHS ORR No. 20200529-9622).

The Texas Department of State Health Services (the "department") received a request for the following: (1) specified plans submitted by the PGA Tour during a specified time period; (2) plans received during a specified time period pertaining to sporting events; and (3) e-mails sent to a specified department e-mail address from professional sports leagues during a specified time period. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of a third party. Accordingly, you state, and provide documentation showing, you notified the PGA Tour of the request for information and of its 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.

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) 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 the PGA Tour explaining why its information should not be released. Therefore, we have no basis to conclude the PGA Tour 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 department may not

withhold any of the information at issue on the basis of any proprietary interest the PGA Tour may have in it.

We note some of the remaining information consists of a personal e-mail address subject to section 552.137 of the Government Code.¹ Section 552.137 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). *See Id.* § 552.137(a)-(c). The e-mail address at issue is not a type specifically excluded by section 552.137(c). Accordingly, the department must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its disclosure. The department 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,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/be

Ref: ID# 856681

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).