



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 5, 2022

Ms. Mary Chang
General Counsel
Fort Worth Employees' Retirement Fund
3801 Hulen Street, Suite 101
Fort Worth, Texas 76107

OR2022-00322

Dear Ms. Chang:

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# 924467.

The Fort Worth Employees' Retirement Fund (the "fund") received a request for information pertaining to a specified investment presentation. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.143 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of American Landmark Fund III GP LLC ("ALF) and Aksia, LLC ("Aksia"). Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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 received comments from ALF and Aksia. We have considered the submitted arguments and reviewed the submitted information.

Section 552.143 of the Government Code provides, in relevant part,

- (a) All information prepared or provided by a private investment fund and held by a governmental body that is not listed in Section 552.0225(b) is confidential and excepted from [required public disclosure].
- (b) Unless the information has been publicly released, pre-investment and post-investment diligence information, including reviews and analyses, prepared or maintained by a governmental body or a private investment fund

is confidential and excepted from [required public disclosure], except to the extent it is subject to disclosure under Subsection (c).

Gov't Code § 552.143(a)-(b). You state the submitted information contains of “information prepared and provided by a private real estate fund to the fund and/or the fund’s investment consultant and held by the fund.” You further explain the remaining information “consists of pre-investment due diligence information prepared for and maintained by the fund and has not been publicly released.” We note the information at issue does not consist of the type of information that is subject to section 552.0225(b) of the Government Code. Further, you state the submitted information is not subject to disclosure pursuant to section 552.143(c) of the Government Code. Also, you state the information at issue has not been released to the public. Based on these representations and our review, we find the fund must withhold the submitted information under section 552.143 of the Government Code.¹

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,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/be

Ref: ID# 924467

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)

¹ As our ruling is dispositive, we need not address the remaining arguments against the disclosure of the submitted information.