



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 2, 2022

Ms. Karen Horner
City Attorney
City of Friendswood
910 South Friendswood Drive
Friendswood, Texas 77546

OR2022-12423

Dear Ms. Horner:

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# 945219 (PIR No. W014645-020822).

The City of Friendswood (the "city") received a request for certain information pertaining to a specified conference as well as specified topics during a defined period of time. We understand you have released some of the requested information to the requestor. We also understand you do not have information responsive to some of the remaining portions of the request.¹ Although you take no position as to whether the submitted information is excepted from disclosure under the Act, you state release of the submitted information may implicate the interests of Bojorquez Law Firm, P.C. ("Bojorquez"); City Hall Essentials, L.L.C. ("City Hall"); the Houston Police Department ("HPD"); MuniMedia; and Texas Municipal League Intergovernmental Risk Pool ("TML"). Accordingly, you state, and provide documentation showing, you notified these interested 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.² See Gov't Code §§ 552.304, .305(d); see also Open

¹ The Act does not require a governmental body to release information that did not exist when a request for information was received, create responsive information, or obtain information that is not held by or on behalf of the city. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

² As of the date of this letter, we have not received comments from HPD or TML as to why the information at issue should not be released. In addition, although Bojorquez and City Hall raise section 552.101 of the Government Code, they make no arguments to support this exception. Therefore, we assume these parties have withdrawn their claims that this section applies to the submitted information. See Gov't Code §§ 552.301, .302.

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 Bojorquez and City Hall. We have considered the submitted arguments and reviewed the submitted information.

Initially, 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 MuniMedia explaining why the submitted information should not be released. Therefore, we have no basis to conclude MuniMedia 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 the submitted information on the basis of any proprietary interest MuniMedia may have in the information.

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country.³ *See id.* § 552.130. Accordingly, the city must withhold all visible license plates in the submitted information under section 552.130 of the Government Code.

Bojorquez and City Hall assert, and we agree, some of their information at issue may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with copyright law and the risk of a copyright infringement suit.

In summary, the city must withhold all visible license plates in the submitted information under section 552.130 of the Government Code. The city must release the remaining information; however, any information subject to copyright may be released only in accordance with copyright law.

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

³ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/be

Ref: ID# 945219

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Interested Parties
(w/o enclosures)

3 Third Parties
(w/o enclosures)