



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 29, 2022

Mr. Thomas Rice
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2022-26183

Dear Mr. Rice:

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# 968845 (COSA File No. W450190-060122).

The City of San Antonio (the "city") received a request for certain information received from real estate developers pertaining to incentives during a defined time period. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Cruising Kitchens, L.L.C. Accordingly, you state, and provide documentation showing, the city notified the third party 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 § 552.305(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.

Initially, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why info relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from the notified third party. Thus, we have no basis to conclude the notified third 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 of the submitted information on the basis of any proprietary interest the notified third party may have in the information.

Section 552.137 of the Government Code 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).¹ *See id.* § 552.137(a)-(c). The e-mail address at issue is not excluded by subsection (c). Therefore, the city must withhold the personal e-mail address we marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure.

In summary, the city must withhold the personal e-mail address we marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. The city 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,

Pearlie Gault
Assistant Attorney General
Open Records Division

PG/mo

Ref: ID# 968845

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

¹ 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 No. 481 (1987), 480 (1987), 470 (1987).