



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 26, 2022

Mr. James Kelly
Open Records Attorney
Texas Department of Insurance
P.O. Box 12030
Austin, Texas 78711

OR2022-29646

Dear Mr. Kelly:

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# 974225 (TDI No. R016070).

The Texas Department of Insurance (the "department") received a request for seven categories of information pertaining to two named companies. 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 proprietary interests of LifeRoc Capital, L.L.C. ("LifeRoc"). Accordingly, you state, and provide documentation showing, you notified LifeRoc 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 received comments from LifeRoc. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you have not submitted information pertaining to the second company. To the extent information responsive to this portion of the request existed on the date the department received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302;

see also Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Next, we note the requestor specifically excluded six categories of information, including e-mail addresses from the present request. Thus, the portions of the submitted information that consists of those categories of information are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release that information in response to this request.¹

Section 552.110(c) of the Government Code excepts from disclosure “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 § 552.110(c). LifeRoc argues some of its responsive information consists of commercial or financial information subject to section 552.110(c). Upon review, we find LifeRoc has demonstrated the information at issue constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the department must withhold the information we indicated under section 552.110(c) of the Government Code.² The department must release the remaining responsive 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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/jm

¹ As we are able to make this determination, we need not address the submitted arguments against disclosure of this information.

² As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

Ref: ID# 974225

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)