



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 19, 2022

Mr. Adam Bitter  
General Counsel  
Office of the Texas Secretary of State  
P.O. Box 12697  
Austin, Texas 78711-2887

OR2022-39310

Dear Mr. Bitter:

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# 989631 (PIR Nos. 22-0925, 22-0926, 22-0927, and 22-0928).

The Texas Secretary of State (the "secretary's office") received four requests from different requestors for three categories of communications. You state the secretary's office will release some information. You claim the submitted information is subject to a previous determination by our office. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.101 and 552.116 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Hart InverCivic, Inc. ("Hart"). Accordingly, you state and provide documentation showing, you notified Hart 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 received comments from Hart. We have considered the submitted arguments and reviewed the submitted information, a portion of which consists of a representative sample.<sup>1</sup>

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<sup>1</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988).* This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

You state, and we agree, the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2022-38920 (2022). In that ruling, we determined the secretary's office must withhold Hart's submitted information under section 552.110(c) of the Government Code and may withhold the remaining information under section 552.116 of the Government Code. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, the secretary's office must continue to rely on Open Records Letter No. 2022-38920 as a previous determination and withhold the submitted information in accordance with that ruling.<sup>2</sup> *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As we are able to make this determination, we need not address the remaining arguments against disclosure of the submitted 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,

James M. Graham  
Assistant Attorney General  
Open Records Division

JMG/mo

Ref: ID# 989631

Enc. Submitted documents

c: Requestors  
(w/o enclosures)

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<sup>2</sup> As we are able to make this determination, we need not address the remaining arguments against disclosure of the submitted information.