



November 12, 2001

Mr. Michael D. Chisum  
General Counsel  
Texas Department of Licensing and Regulation  
P.O. Box 12157  
Austin, Texas 78711

OR2001-5233

Dear Mr. Chisum:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 154751.

The Texas Department of Licensing and Regulation (the "department") received a request for the Boxing Promoter Tax Report form and the results sheet from twelve boxing events. You claim that the requested information is excepted from disclosure under section 552.110 of the Government Code. Additionally, you have notified five third parties of the request for information pursuant to section 552.305 of the Government Code. *See Gov't Code § 552.305* (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

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, none of the third parties notified by the department has submitted to this office its reasons explaining why its information should not be released. Therefore, we will consider the argument made by the department.

You argue that public disclosure of the information at issue "may cause substantial competitive harm to the company from whom the information was obtained," and is excepted from disclosure under section 552.110 of the Government Code. The governmental body, or interested third party, raising the commercial or financial information prong of this exception must provide a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from disclosure. Gov't Code § 552.110(b); Open Records Decision No. 661 (1999); *see also National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. cir. 1974). As there has been no such showing here, we conclude that the requested information may not be withheld under section 552.110, and must be released to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/seg

Ref: ID# 154751

Enc. Submitted documents

c: Mr. Ursulo Perez  
Promotions  
154 Babcock  
San Antonio, Texas 78201  
(w/o enclosures)

Mr. Saul W. Soliz  
Patumwadee Gym  
2022 Naomi  
Houston, Texas 77054  
(w/o enclosures)

Mr. Jim Browning  
Browning Boxing, Inc.  
2620 South Shepard, Suite 127  
Houston, Texas 77098  
(w/o enclosures)

Mr. Robert Arum  
Top Rank, Inc.  
3980 Howard Hughes Parkway, Suite 580  
Las Vegas, Nevada 89109  
(w/o enclosures)

Mr. Eduardo Gamez, Sr.  
Gamez Productions, Inc.  
777 East Harrison Street  
Brownsville, Texas 78520  
(w/o enclosures)

Mr. Antonio Leonard  
Antonio Leonard Productions  
99 Detering, Suite 100  
Houston, Texas 77007  
(w/o enclosures)