



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 27, 2005

Mr. Erin Perales
General Counsel
Houston Municipal Employees Pension System
111 Bagby, Suite 2450
Houston, Texas 77002-2555

OR2005-11607

Dear Mr. Perales:

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# 240979.

The Houston Municipal Employees Pension System (the "system") received a request for the following five categories of information pertaining to ten specified partnerships: (1) the name of the fund manager, (2) the "vintage" of the fund, (3) the date of the initial commitment, (4) the size of the fund, and (5) the type of the fund.¹ You state that categories 1 and 3 have been or will be released, but claim that categories 2, 4, and 5 are excepted from disclosure under section 552.143 of the Government Code. You also state that you notified the interested third parties of the system's receipt of the request for information and of the right of each company to submit arguments to this office as to why the requested information should not be released to the requestor. *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 considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹In response to a request for clarification from the system, the requestor informed the system that the requested "vintage" information "represents the year in which Houston Municipal Employees Pension Plan commenced its first investment for each partnership." *See generally* Gov't Code § 552.222.

²We assume that 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.

Initially, we note that the submitted responsive information is subject to section 552.0225 of the Government Code, which provides in relevant part as follows:

(a) Under the fundamental philosophy of American government described by section 552.001, it is the policy of this state that investments of government are investments of and for the people and the people are entitled to information regarding those investments. The provisions of this section shall be liberally construed to implement this policy.

(b) The following categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under this chapter:

...

(3) each date the governmental body invested in a fund or investment entity described by Subdivision (1)

...

(8) the remaining value of any fund or investment entity the governmental body is or has invested in;

...

(12) a description of all of the types of businesses a governmental body is or has invested in through a fund or investment entity[.]

Gov't Code § 552.0225(a), (b)(3), (b)(8), (b)(12). The requested vintage information, size, and type of each fund in the submitted information consist of information subject to subsections 552.0225(b)(3), (8), and (12). Although the system argues that the responsive information is excepted under section 552.143 of the Government Code, subsection 552.0225(b) provides that information subject to section 552.0225 is not excepted from disclosure under the Act. Accordingly, the system must release the information at issue pursuant to section 552.0225.

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).

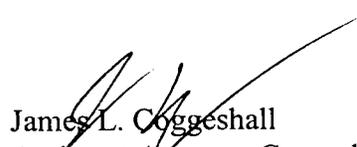
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/sdk

Ref: ID# 240979

Enc. Submitted documents

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