



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 7, 2006

Mr. Jonathan Needle  
General Counsel  
Houston Firefighters' Relief and Retirement Fund  
4225 Interwood N. Parkway  
Houston, Texas 77032-3866

OR2006-01246

Dear Mr. Needle:

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# 242857.

The Houston Firefighters' Relief and Retirement Fund (the "fund") received a request for the "Commitment, Contribution, Distribution, Value and IRR as of March 31, 2005 and June 30, 2005."<sup>1</sup> You indicate that the submitted information may be excepted under sections 552.110 and 552.143 of the Government Code, but take no position as to whether this information is excepted under either section. You state, and provide documentation showing, that you notified Centennial Ventures, Lone Star Funds, Lexington Partners, and Ranieri & Co., Inc. of the fund's receipt of the request for information and of the right of each 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). You inform us that Hyperion Partners II and TCW SHOP, which are two of the four investment entities involved in this matter, "no longer wish to contest release of the information," and that you have released to the requestor the information pertaining to these entities. We have reviewed the remaining 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 requested information relating to it should be withheld from disclosure. *See* Gov't Code

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<sup>1</sup>You inform us that the requestor subsequently clarified his request. *See generally* Gov't Code § 555.222(b) (governmental body may ask requestor to clarify request).

§ 552.305(d)(2)(B). As of the date of this letter, none of the remaining interested third parties has submitted to this office any reasons explaining why the requested information should not be released. We thus have no basis for concluding that any portion of the submitted information constitutes proprietary information of any of the remaining interested third parties, and the fund may not withhold any portion of the submitted information on that basis. See Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990). Instead, the fund must release the submitted information 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).

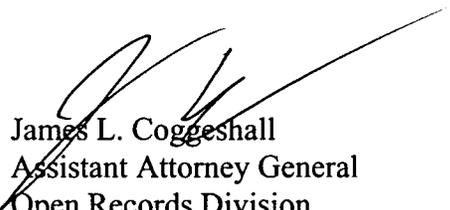
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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/er

Ref: ID# 242857

Enc. Submitted documents

c: Mr. Mark O'Hare  
Private Equity Intelligence  
P.O. Box 327  
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Mr. Robert Keppler  
Centennial Ventures  
1428 Fifteenth Street  
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Ms. Giner Quillen  
Lone Star Funds  
717 N. Harwood Street, Suite 2200  
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Mr. Nick Harris  
Lexington Partners  
3000 Sand Hill Road, Building I, Suite 220  
Menlo Park, California 94025

Mr. Scott Shay  
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50 Charles Lindbergh Blvd., Suite 500  
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(w/o enclosures)