



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 11, 2010

Ms. Erin Perales
General Counsel
Houston Municipal Employees Pension System
1111 Bagby, Suite 2450
Houston, Texas 77002

OR2010-03524

Dear Ms. 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# 372289.

The Houston Municipal Employees Pension System (the "system") received a request for twelve categories of information from quarterly and annual records from 1998 through 2009, regarding partnerships in which the system has invested. You state the system does not have some of the requested information.¹ You also state the system will release a portion of the responsive information in accordance with the ruling issued by this office in Open Records Letter No. 2005-11607 (2005). *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). Although you take no position as to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of third parties. Thus, pursuant to section 552.305 of the Government Code, you notified the third parties of the

¹The Act does not require a governmental body to release information that did not exist when a request for information was received, create responsive information, or obtain information that is not held by or on behalf of the governmental body. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision No. 452 at 3 (1986).

request and of the companies' right to submit arguments to this office as to why their information should not be released.² *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted representative sample of information.³

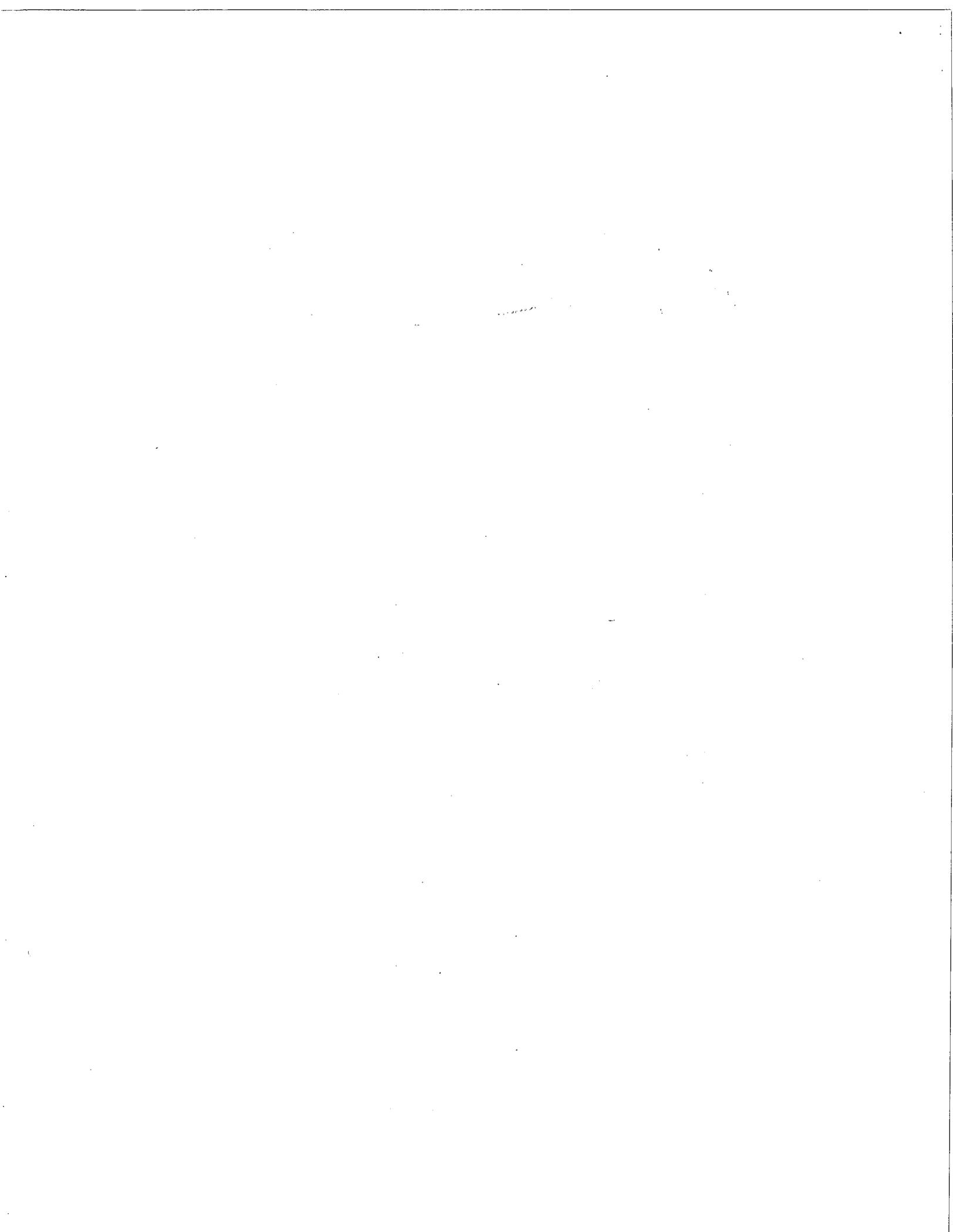
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any third parties explaining why any portion of the submitted information should not be released. Therefore, we have no basis to conclude the third parties have protected proprietary interests in the submitted information. *See id.* § 552.110; 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. Consequently, the system may not withhold the submitted information on the basis of any proprietary interest the third parties may have in the information. As you raise no exceptions to disclosure, the information at issue must be released in its entirety to the requestor.

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free,

²The notified third parties are: Aetos Capital; Carlyle Group; CB Richard Ellis; Crow Family Partners; Fortress Investment Group LLC; Global Forest Partners LP; Goldman Sachs; Harbourvest; J.W. Childs Equity Partners; Matlin Patterson Global Partners; Morgan Stanley Real Estate Funds; Oaktree Capital Management; PacVen; Pharos Capital; Platinum Equity; Prudential Strategic Investment Corporation; Quantum Energy Partners; Quantum Resources; RREEF; Sun Capital Partners, Inc.; TrueBridge Capital Partners; TSG Capital; and The Jordan Company, LP.

³We 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.



Mr. Lawrence Teitelbaum
Matlin Patterson Global Partners
520 Madison Avenue
New York, New York 10022-4213
(w/o enclosures)

Ms. Pamela Fong
Morgan Stanley Real Estate Funds
1585 Broadway, Floor 37
New York, New York 10036
(w/o enclosures)

Ms. Teresa Smith
PacVen
One California Street, Suite 2800
San Francisco, California 94111
(w/o enclosures)

Mr. Mike Ross
Quantum Energy Partners
1401 McKinney Street, Suite 2700
Houston, Texas 77002
(w/o enclosures)

Ms. Jill Finken
Quantum Resources
1401 McKinney Street, Suite 2700
Houston, Texas 77002
(w/o enclosures)

Mr. Mel A. Williams
TrueBridge Capital Partners
1350 Environ Way
Chapel Hill, North Carolina 27517
(w/o enclosures)

Ms. Kristin Custar
The Jordan Company, LP
767 Fifth Avenue, 48th Floor
New York, New York 10153
(w/o enclosures)

Mr. Adams Suttin
J.W. Childs Equity Partners
111 Huntington Avenue, Suite 2900
Boston, Massachusetts 02199-7610
(w/o enclosures)

Mr. Doug Powell
Oaktree Capital Management
1301 Avenue of the Americas, 34th Floor
New York, New York 10019
(w/o enclosures)

Mr. Kneeland Youngblood
Pharos Capital
300 Crescent Court, Suite 1380
Dallas, Texas 75201
(w/o enclosures)

Mr. Mark Barnhill
Platinum Equity
360 North Crescent Drive, South Building
Beverly Hills, California 90210
(w/o enclosures)

Mr. David Breuner
RREEF
101 California Street, 26th Floor
San Francisco, California 94111
(w/o enclosures)

Mr. Richard Hurwitz
Sun Capital Partners, Inc.
5200 Town Center Circle, Suite 600
Boca Raton, Florida 33486
(w/o enclosures)

Mr. Mark Inglis
TSG
P.O. Box 448
Southport, Connecticut 06890
(w/o enclosures)

Mr. Mark Oczkus
Prudential Strategic Investments Corp.
c/o Prudential Real Estate Investors
4 Embarcadero Center
San Francisco, California 94111-4106
(w/o enclosures)

Ms. Heidi Kearns
Global Forest Partners, LP
Trade Center, 4th Floor
24 West Airport Road
West Lebanon, New Hampshire 03784
(w/o enclosures)