



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 11, 2010

Ms. Destinee Waiters
Assistant General Counsel
Houston Community College
P.O. Box 667517
Houston, Texas 77266-7517

OR2010-03703

Dear Ms. Waiters:

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# 373003.

Houston Community College (the "college") received a request for information pertaining to the college's radio advertising. You claim that the requested information is excepted from disclosure under section 552.110 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

Initially, we note that section 552.301(b) of the Government Code requires a governmental body that desires to withhold information under the Act to ask for the attorney general's decision and state the exceptions that apply no later than ten business days after the date of receiving the written request. You indicate the college received the instant request for information on December 9, 2009. The college sought clarification from the requestor on January 5, 2010 as to the scope of the request, and the requestor responded on January 6, 2010.² *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). Accordingly, as we have no indication that the college acted in bad faith in seeking clarification in this case, we consider the college's ten day period for requesting a decision under section 552.301(b) to have

¹We 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.

²The college informs this office that the college was closed for business during winter break from December 21, 2009 through January 1, 2010.

commenced on January 6, 2010, the date of the college's receipt of the requestor's response to the request for clarification. *See City of Dallas v. Abbott*, No. 07-0931, 2010 WL 571972, at *3 (Tex. February 19, 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). Accordingly, as the envelope containing your brief requesting a decision from this office is postmarked January 7, 2010, we consider the college's request to have been timely made.

You assert the submitted information is excepted under section 552.110 of the Government Code. However, we note section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the college's arguments under section 552.110 and none of the submitted information may be withheld on that basis. Further, we have not received arguments from any third party explaining how the submitted information contains the third party's trade secrets or its commercial or financial information. *See Gov't Code* § 552.305(d)(2)(B); *see also id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (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 (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990). As no further exceptions to disclosure have been raised, the submitted information must be released.

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, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 373003

Enc. Submitted documents

cc: Requestor
(w/o enclosures)