



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 10, 2010

Mr. Benjamin V. Lugg  
San Antonio Housing Authority  
818 South Flores Street  
San Antonio, Texas 78204

OR2010-17108

Dear Mr. Lugg:

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# 399914.

The San Antonio Housing Authority (the "authority") received a request for the following categories of information pertaining to all investment and retirement accounts, including 401(k) plans, pension plans, 403(b) plans, defined-contribution plans, defined-benefit plans (collectively, the "plans"), administered by the authority: (1) all documents prepared by Private Capital Management, L.P. ("PCM") or the authority's agents regarding the plans' investment policies, investment objectives, portfolio characteristics, risk disclosures, investment classifications, and investment restrictions; (2) all marketing materials prepared by PCM or the authority's agents that refer to PCM's investment process or the financial sector, including promotional documents, brochures, fact sheets, newsletters, articles, catalogs, presentation folders, or other forms of advertisements; (3) all internal reports reflecting concern regarding the investment advisory services provided by PCM to the plans, including watch lists or caution letters; and (4) all documents provided by PCM to the plans' administrators regarding the plans' performance, holdings and returns, including documents discussing the plans' subprime mortgage loan exposure. You indicate some of the responsive information will be made available to the requestor. You claim that the submitted information is excepted from disclosure under section 552.143 of the Government

Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we note that some of the submitted information is subject to section 552.0225 of the Government Code. Section 552.0225 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:

...

(7) the internal rate of return or other standard used by a governmental body in connection with each fund or investment entity it is or has invested in and the date on which the return or other standard was calculated[.]

Gov't Code § 552.0225(a), (b)(7). We have marked information subject to section 552.0225. As noted above, the authority argues that the submitted information is excepted under section 552.143. However, subsection 552.0225(b) provides that information subject to section 552.0225 is not excepted from disclosure under the Act. Consequently, the authority may not withhold any information that is subject to section 552.0225 under section 552.143 of the Government Code. Accordingly, the authority must release the information we have marked under subsection 552.0225(b)(7).

You assert the remaining submitted information is excepted from disclosure under section 552.143(a) of the Government Code, which provides that "[a]ll information prepared or provided by a private investment fund and held by a governmental body that is not listed in Section 552.0225(b) is confidential and excepted from the requirements of Section 552.021." *Id.* § 552.143(a). You inform us the information at issue was provided by PCM, which you state is a private investment fund. Based on your representations and our review of the information at issue, we agree the authority must withhold the remaining submitted information under section 552.143(a) of the Government Code.

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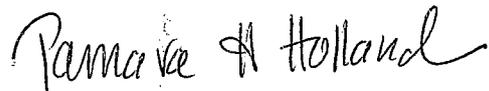
<sup>1</sup>Although the authority also raises section 552.021 of the Government Code as an exception to disclosure, we note that this provision is not an exception to disclosure under the Act. *See* Gov't Code § 552.021 (providing that public information is available during normal business hours).

In summary, the authority must release the information we have marked under subsection 552.0225(b)(7) of the Government Code. The authority must withhold the remaining information under section 552.143 of the Government Code.

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](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,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/em

Ref: ID# 399914

Enc. Submitted documents

c: Requestor  
(w/o enclosures)