



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2013

Mr. David F. Brown
Counsel for the Port of Houston Authority
Ewell, Bickham & Brown, L.L.P.
111 Congress Avenue, Suite 2800
Austin, Texas 78701

OR2013-14157

Dear Mr. Brown:

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# 496304.

The Port of Houston Authority (the "authority"), which you represent, received a request for all financial statements submitted to the authority by the Houston Pilots Association (the "Pilots Association") during a specified period of time. Although you take no position as to whether the submitted information is excepted under the Act, you inform us release of the submitted information may implicate the proprietary interests of the Pilots Association. Accordingly, you state, and provide documentation showing, you notified the Pilots Association of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *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 reviewed the submitted representative sample of information.¹

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 the Pilots Association explaining why the submitted information should not be released.

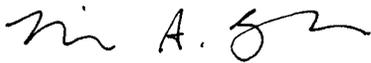
¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Therefore, we have no basis to conclude the Pilots Association has a protected proprietary interest 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. Accordingly, the authority may not withhold the submitted information on the basis of any proprietary interest the Pilots Association may have in the information. As no 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/dls

Ref: ID# 496304

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Capt. Robert Thompson
Presiding Officer
Houston Pilots
203 Deerwood Glen Drive
Deer Park, Texas 77536
(w/o enclosures)