



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 13, 2016

Mr. David Kemp
First Assistant County Attorney
Potter County
500 South Fillmore, Room 303
Amarillo, Texas 79101

OR2016-01074

Dear Mr. Kemp:

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# 594310.

The Potter County Commissioner, Precinct 2, (the "county") received a request for information pertaining to repairs performed in conjunction with the lease on Potter Stadium. Although the county takes no position as to whether the submitted information is excepted from disclosure under the Act, you state release of the information may implicate the proprietary interests of Southern Independent Baseball, L.L.C. ("SIB"). Accordingly, you state, and provide documentation showing, you notified SIB of the request for information and of the organization's right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the 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) of the Government Code 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

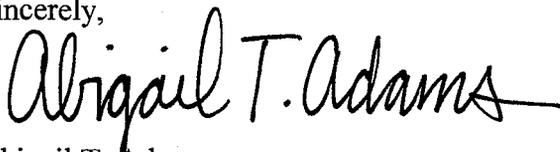
received comments from SIB explaining why the submitted information should not be released. Therefore, we have no basis to conclude SIB has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial 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 county may not withhold the submitted information on the basis of any proprietary interest SIB may have in the information.

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.”¹ Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Accordingly, the county must withhold the information we have marked under section 552.136 of the Government Code. As no further exceptions to disclosure have been raised, the county must release the remaining information.

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,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/akg

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 594310

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Gary D. Elliston
Southern Independent Baseball, LLC
901 Main Street, Suite 3500
Dallas, Texas 75202
(w/o enclosures)