



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 4, 2016

Mr. Ray Rodriguez  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283

OR2016-02765

Dear Mr. Rodriguez:

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# 596763 (COSA File No. W102103-110315).

The City of San Antonio (the "city") received a request for all Center City Housing Incentive Program applications received for a specified time period. Although you take no position as to whether the submitted information is excepted from disclosure under the Act, you state release of the submitted information may implicate the proprietary interests of third parties. Accordingly, you state you notified these third parties of the request for information and of their 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 received comments from Mission Escondida, L.L.C. ("Mission") and Transwestern Development Company ("Transwestern"). We have reviewed the submitted arguments and the submitted information.

Initially, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have only received comments from Transwestern and Mission. Thus, none of the other third parties have demonstrated a protected proprietary interest in any of

the submitted information. *See id.* § 552.110(a)–(b); 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 city may not withhold the submitted information on the basis of any proprietary interests the remaining third parties may have in the information.

Next, Mission and Transwestern argue against release of information the city did not submit for our review. This ruling does not address information beyond what the city has submitted to us for review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Accordingly, this ruling is limited to the information the city submitted as responsive to the request for information. *See id.*

Section 552.110(b) of the Government Code protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” *Id.* § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* ORD 661 at 5-6.

Mission and Transwestern contend portions of their information are commercial or financial information, release of which would cause substantial competitive harm to each respective company. Upon review of Mission’s and Transwestern’s arguments under section 552.110(b), we conclude Mission and Transwestern have established the release of their rental rates and costs, which we have marked, would cause the companies substantial competitive injury. Accordingly, the city must withhold the information we have marked under section 552.110(b).<sup>1</sup> As no other exceptions to disclosure have been raised, the remaining 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.

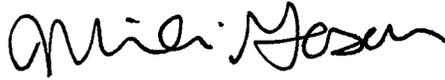
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

---

<sup>1</sup>As our ruling is dispositive, we need not address Mission’s and Transwestern’s remaining arguments against disclosure of this information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/akg

Ref: ID# 596763

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Peter Greenblum  
118 Guadalupe, LLC  
P.O. Box 171374  
San Antonio, Texas 78217  
(w/o enclosures)

Mr. Desmon Odunusi  
Swig Management  
P.O. Box 12635  
San Antonio, Texas 78212  
(w/o enclosures)

Mr. Peter Stainken  
Peter Stainken Contracting  
7127 North Vandiver Road  
San Antonio, Texas 78209  
(w/o enclosures)

Mr. Michael Wibracht  
210 Development Group  
454 Soledad, Suite 300  
San Antonio, Texas 78205  
(w/o enclosures)

Mr. Mike Melson  
SOJO Myrtle I LLC  
317 Thelma Drive  
San Antonio, Texas 78212  
(w/o enclosures)

Parklid City Homes, LLC  
526 Everest  
San Antonio, Texas 78209  
(w/o enclosures)

Mr. Nick Sirianni  
AREA Real Estate  
1221 Broadway, Suite 104  
San Antonio, Texas 78215  
(w/o enclosures)

Mr. Patrick Biernacki  
825 Grayson LLC  
801 East Quincy  
San Antonio, Texas 78215  
(w/o enclosures)

Mr. James B. Griffin  
Brown & Ortiz  
112 East Pecan, Suite 1360  
San Antonio, Texas 78205  
(w/o enclosures)

Mr. Wade B. Johns  
AM River Walk  
3012 Fairmount Street, Suite 100  
Dallas, Texas 75201  
(w/o enclosures)

Mr. Charles Turner  
K/T TX Holdings  
3425 Highway 6, Suite 110  
Sugar Land, Texas 77478  
(w/o enclosures)

Mr. Efraim Varga  
Collaborative Homes  
c/o Ray Rodriguez  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283  
(w/o enclosures)

Mr. Logan Fullner  
Temple Investment Holdings Corp  
999 East Basse Road #180-538  
San Antonio, Texas 78209  
(w/o enclosures)

Mr. Adrian Garcia  
FARR Builders  
3401 South Gevers, Suite 1  
San Antonio, Texas 78210  
(w/o enclosures)

Mr. Edgar Sandoval  
Franklin Development Properties  
21260 Gathering Oak, Suite 101  
San Antonio, Texas 78260  
(w/o enclosures)

Mr. Louis Bernardy  
McCormick Baron Salazar Inc  
801 South Grand Avenue, Suite 780  
Los Angeles, California 90017  
(w/o enclosures)

Mr. Michael Wibracht  
Mission DG  
454 Soledad, Suite 300  
San Antonio, Texas 78205  
(w/o enclosures)

Mr. Ross Wilson  
PSW Real Estate, LLC  
2003 South First Street  
Austin, Texas 78704  
(w/o enclosures)

Mr. Peter Greenblum  
202 Keller LLC  
P.O. Box 171374  
San Antonio, Texas 78217  
(w/o enclosures)

Mr. Patrick W. Christensen  
Christensen PC  
310 South Saint Mary's Street, Suite 1900  
San Antonio, Texas 78205  
(w/o enclosures)

Mr. Bradley Bechtol  
602 Roosevelt LP  
314 East Commerce Street, Suite 600  
San Antonio, Texas 78205  
(w/o enclosures)

Mr. James H. Schuepbach  
Schuepbach Properties  
549 Heimer Road, Suite 100  
San Antonio, Texas 78232  
(w/o enclosures)

Mr. Juan Fernandez  
Sandalwood LLC  
1501 South Flores  
San Antonio, Texas 78204  
(w/o enclosures)

Mr. Victor Andonie  
North Alamo Properties  
13750 San Pedro Avenue, Suite  
B10  
San Antonio, Texas 78232  
(w/o enclosures)

Mr. Rob Killen  
For Mission Escondida and  
Transwestern Development  
Kaufman Killen  
100 W. Houston Street, Suite 1250  
San Antonio, Texas 78205-1457  
(w/o enclosures)

Mr. Mike Klein  
SC Bodner Company  
c/o Brown & Ortiz  
112 East Pecan Street, Suite 1360  
San Antonio, Texas 78205  
(w/o enclosures)