



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 16, 2016

Ms. Cathy Cunningham  
Counsel for the Town of Westlake  
Boyle & Lowry, L.L.P.  
4201 Wingren Drive, Suite 108  
Irving, Texas 75062-2763

OR2016-11119

Dear Ms. Cunningham:

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# 610518.

The Town of Westlake (the "town"), which you represent, received a request for five categories of information pertaining to a specified bond issuance. We understand you have released some information. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of a third party. Accordingly, you state, and provide documentation showing, you notified two third parties of the request and their rights to submit arguments to this office. *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 also received and considered comments submitted by the requestor. *See Gov't Code* § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). We have considered the submitted information.

Initially, we understand the town to argue a portion of the submitted information is not responsive to the present request for information. However, we note a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). We note the request seeks "[a] copy

of the hotel agreements, which were a condition precedent to the issuance of the bonds[.]” Further, as the town states “it is not clear” if the information at issue is responsive, has submitted information for our review, and states release may implicate the proprietary interests of two third parties, we find the town has made a good-faith effort to submit information that is responsive to the request. Accordingly, we will consider whether the submitted information must be withheld under the Act on behalf of a third party.

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 ruling, we have not received comments from any third party. Thus, we have no basis to conclude any third party has a protected proprietary interest in 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 town may not withhold any of the submitted information on the basis of any proprietary interest either third party may have in the information. As we have received no arguments against disclosure, 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](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,



Matthew Taylor  
Assistant Attorney General  
Open Records Division

MT/dls

Ref: ID# 610518

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)