

**CAUSE NO. D-1-GN-17-002923**

**CITY OF HUTTO, TEXAS,**  
*Plaintiff,*

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**IN THE DISTRICT COURT**

v.

**OF TRAVIS COUNTY, TEXAS**

**KEN PAXTON,**  
**ATTORNEY GENERAL OF TEXAS,**  
*Defendant.*

**§ 200TH JUDICIAL DISTRICT**

**PLAINTIFF'S ORIGINAL PETITION**

Plaintiff City of Hutto, Texas, brings this suit to challenge Letter Ruling OR2017-11157 and asks the Court to rule that the information at issue in Letter Ruling OR2017-11157 is not subject to disclosure under the Texas Public Information Act.

**I. DISCOVERY CONTROL PLAN**

1. Plaintiff intends to conduct discovery, if necessary, under Level 3 of Texas Rule of Civil Procedure 190.

**II. PARTIES**

2. Plaintiff City of Hutto, Texas, is a political subdivision of the State of Texas (the "City").

3. Defendant is Ken Paxton, the Attorney General of Texas. The Open Records Division of the Office of the Attorney General ("ORD") issued Letter Ruling OR2017-11157, the letter ruling at issue ("Ruling").

4. This suit is brought pursuant to Government Code section 552.324 and has been filed within the statutory time period.

### III. SERVICE

5. The Attorney General may be served in the Price Daniel, Sr. Building, 8<sup>th</sup> Floor, 209 West 14<sup>th</sup> Street, Austin, Texas 78701.

### IV. VENUE & JURISDICTION

6. Venue and jurisdiction are proper in this court under the authority of the Government Code as this is a suit pursuant to section 552.324 of the Government Code.

7. In accordance with section 552.325(b) of the Government Code, the County will make a timely good faith effort to notify the requester, in writing, of the following:

- the existence of the suit, including the subject matter and cause number of the suit and the court in which the suit is filed;
- the requestor's right to intervene in the suit or to choose to not participate in the suit;
- the fact that the suit is against the Attorney General; and
- the address and phone number of the Office of the Attorney General.

### V. CAUSE OF ACTION UNDER GOVERNMENT CODE SECTION 552.324

8. The City received a request for information on March 1, 2017. The request asked for "any and all memos, letters and correspondence prepared by Brionne McDonald, Jill Cloud and Odis Jones on February 23, 2017 and February 24, 2017." The City determined that portions of the responsive information were confidential by law and requested a ruling from the Attorney General.

9. The Ruling challenged here, OR2017-11157, found that some of the information at issue should be disclosed.

10. Under Government Code sections 552.101, 552.103 and 552.104, some or all of the information requested is exempted from disclosure under the Public Information Act. *See* TEX.



GOV'T CODE ANN. Ch. 552.

11. Section 552.101 of the Act excepts from disclosure material that is confidential by law. The material requested in the Request contains emails and discussions about potential job applicants which are confidential pursuant to common law privacy

12. Section 552.103 exempts from disclosure information that is “information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person’s office or employment, is or may be a party.” *See* §552.103(a). Information relating to litigation involving a government body or an officer or employee of a government body is excepted from disclosure under Subsection (a) if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for access to, or duplication of, the public information. All of the material requested is subject to the “litigation exception” provided for in §552.103.

13. Section 552.104(a) of the Government Code excepts from disclosure information “from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.” The responsive documents contain information regarding current and/or potential contractors, the release of which would give advantage to competitors.

## **VI. CONCLUSION & PRAYER**

14. For these reasons, Plaintiff City of Hutto, Texas, seeks a final judgment in its favor that the information at issue in Letter Ruling OR2017-11157 is excepted from disclosure under the Public Information Act.

Respectfully Submitted,

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By: /s/ Michael Shaunessy  
MICHAEL SHAUNESSY  
State Bar No. 18134550  
Eric A. Johnston  
State Bar No. 24070009

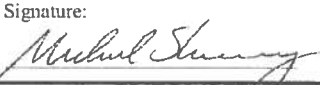
*Attorney for Plaintiff City of Hutto, Texas*

## CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_ COURT (FOR CLERK USE ONLY): \_\_\_\_\_

STYLED City of Hutto, Texas v. Ken Paxton, Attorney General of Texas  
 (e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing. This sheet, approved by the Texas Judicial Council, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

<b>1. Contact information for person completing case information sheet:</b> Name: <u>Michael Shaunessy</u> Email: <u>mshaunessy@mcginnislaw.com</u> Address: <u>600 Congress, Ave, Suite 2100</u> Telephone: <u>512.495.6000</u> City/State/Zip: <u>Austin, Texas 78701</u> Fax: <u>512.495.6093</u> Signature:  State Bar No: <u>18134550</u>		<b>Names of parties in case:</b> Plaintiff(s) Petitioner(s): <u>City of Hutto, Texas</u> Defendant(s)/Respondent(s): <u>Ken Paxton, Attorney General of Texas</u> [Attach additional page as necessary to list all parties]		<b>Person or entity completing sheet is:</b> <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____																						
<b>2. Indicate case type, or identify the most important issue in the case (select only 1):</b>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center;">Civil</th> <th colspan="3" style="text-align: center;">Family Law</th> </tr> <tr> <td style="width: 25%; padding: 5px;"> <b>Contract</b>  <i>Debt Contract</i>  <input type="checkbox"/> Consumer DTPA  <input type="checkbox"/> Debt Contract  <input type="checkbox"/> Fraud/Misrepresentation  <input type="checkbox"/> Other Debt Contract:    <i>Foreclosure</i>  <input type="checkbox"/> Home Equity—Expedited  <input type="checkbox"/> Other Foreclosure  <input type="checkbox"/> Franchise  <input type="checkbox"/> Insurance  <input type="checkbox"/> Landlord/Tenant  <input type="checkbox"/> Non-Competition  <input type="checkbox"/> Partnership  <input type="checkbox"/> Other Contract:                 </td> <td style="width: 25%; padding: 5px;"> <b>Injury or Damage</b>  <input type="checkbox"/> Assault/Battery  <input type="checkbox"/> Construction  <input type="checkbox"/> Defamation  <i>Malpractice</i>  <input type="checkbox"/> Accounting  <input type="checkbox"/> Legal  <input type="checkbox"/> Medical  <input type="checkbox"/> Other Professional Liability:    <input type="checkbox"/> Motor Vehicle Accident  <input type="checkbox"/> Premises  <i>Product Liability</i>  <input type="checkbox"/> Asbestos/Silica  <input type="checkbox"/> Other Product Liability List Product:  <input type="checkbox"/> Other Injury or Damage:                 </td> <td style="width: 25%; 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