



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 2, 1998

Mr. Helmut Talton
Associate General Counsel
Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR98-2114

Dear Mr. Talton:

You ask that we reconsider our decision in Open Records Letter No. 98-1415 (1998). Your request was assigned ID# 117759.

Open Records Letter No. 98-1415 (1998) determined that the Texas Department of Transportation (the "department") must release to the requestor design calculations and installation drawings for concrete block retaining walls for project number 1188-02-151. The Tensar Corporation, which submitted the requested information to the department, had asserted that the requested information was excepted from required public disclosure based on sections 552.104 and 552.110 of the Government Code, but the letter decision found both exceptions inapplicable. You now ask that we reconsider our section 552.110 determination. You also assert that federal copyright law prohibits the department from releasing copyrighted information to the requestor. Tensar argues that the information pertains to its MESA Retaining Wall System design, which constitutes its trade secret.

Section 552.110 of the Government Code excepts trade secrets from required public disclosure. *See* Open Records Decision No. 552. (1990). Tensar has now provided this office with additional briefing about the nature of the requested information. We have reviewed Tensar's arguments. We conclude that Tensar has established that the information is a trade secret. *See Hyde Corp. v. Huffines*, 314 S.W.2d 763 (Tex.), *cert. denied*, 358 U.S. 898 (1958). We therefore conclude that the department must withhold the information from public disclosure based on section 552.110 of the Government Code. *See* Open Records Decision No. 150 (1977) (third party interest provides compelling reason for withholding requested information).

We are resolving this matter with this informal letter ruling rather than with a published open records decision.¹ This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Deputy Chief
Open Records Division

KHH/mjc

Ref.: ID# 117759

Enclosures: Submitted documents

cc: Mr. Scott M. Lloyd
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¹In light of our conclusion under section 552.110, we need not address the copyright issue raised by the department.