



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 26, 2005

Ms. Lisa Evans  
City Secretary  
City of Panorama Village  
99 Hiwon Drive  
Panorama Village, Texas 77304-1123

OR2005-03529

Dear Ms. Evans:

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# 222693.

The City of Panorama Village (the "city") received a request for "copies of the final bids for the management of Panorama Country Club that were submitted to the city." You make no arguments as to whether the information is excepted from disclosure, but you state that the request may involve third party proprietary interests. Accordingly, you inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, you notified the following third parties of the request for information and of their right to submit arguments explaining why the information concerning them should not be released: M<sup>2</sup> Mitton Management; Billy Casper Golf Management; Strong Sports Management Inc.; Escalante; M.R.H. Golf Management Inc.; and CCI-Golf Solution (these third parties are referred to herein each as a "company" and collectively as the "companies"). See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); see also Open Records Decision No. 542 (1990) (determining that 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 representative sample of information.<sup>1</sup>

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

We note that 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) to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, this office has not received comments from any of the companies explaining how the release of the submitted information will affect their proprietary interests. Thus, none of the companies has demonstrated that any of the submitted information is proprietary for purposes of chapter 552 of the Government Code. *See* Gov't Code § 552.110; *see also, e.g.*, 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 (1990). Accordingly, the city may not withhold any of the requested information on the basis of any proprietary interest that any of the companies may have in the information. Because you make no arguments as to whether the information is excepted from disclosure and the submitted information is not otherwise confidential by law, you must release the requested information to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Robert B. Rapfogel  
Assistant Attorney General  
Open Records Division

RBR/krl

Ref: ID# 222693

Enc. Submitted documents

c: Mr. Rusty Denner  
Bryan Golf Course  
206 West Villa Maria  
Bryan, Texas 77801  
(w/o enclosures)

Mr. David I. McDonald  
Escalante  
3619 Asbury Street  
Dallas, Texas 75205  
(w/o enclosures)

Mr. Peter M. Hill  
Billy Casper Golf Management  
8300 Boone Boulevard, Suite 350  
Vienna, Virginia 22181  
(w/o enclosures)

Mr. C. Matthew Landreau  
CCI-Golf Solution  
1308 Kingwood Drive  
Kingwood, Texas 77339  
(w/o enclosures)

Mr. Michael J. Mitton  
M<sup>2</sup> Mitton Management  
P. O. Box 29006  
Shreveport, Louisiana 71149  
(w/o enclosures)

Mr. Jeff Strong  
Strong Sports Management Inc  
7311 Texas Laurel Loop  
Kingwood, Texas 77346  
(w/o enclosures)

Mr. Mike Hoelzer, Sr.  
M.R.H. Golf Management Inc.  
4722 Twisting Road  
Houston, Texas 77084  
(w/o enclosures)