



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 1, 2006

Ms. Marianna M. McGowan
Abernathy, Roeder, Boyd & Joplin, P.C.
P. O. Box 1210
McKinney, Texas 75070-1210

OR2006-08489

Dear Ms. McGowan:

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# 255667.

The Plano Independent School District (the "district"), which you represent, received a request for the primary vendor bid in connection with the request for proposals #3710 for microfilm/microfiche services. You believe that the submitted information may implicate the proprietary interests of Lason Systems, Inc. ("Lason"). Accordingly, you inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, the district notified Lason of the request for information and of the company's right to submit arguments explaining why the requested information should not be released. *See Gov't Code § 552.305(d); 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 to disclosure in certain circumstances). To the extent additional responsive information existed on the date the district received the request for information, we assume such information has been released. If not, any such information must be released at this time. *See Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000)* (concluding that section 552.221(a) requires that information not excepted from disclosure must be released as soon as possible under circumstances). We have reviewed the information you have submitted and considered Lason's arguments.

The submitted information consists of Lason's customer reference list. The company argues that this information should be withheld under section 552.110(b) of the Government Code.

This provision excepts from disclosure “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.” Gov’t Code § 552.110(b). Section 552.110(b) requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the requested information. *See* Open Records Decision No. 661 at 5-6 (1999).

Lason argues that release of the submitted information would cause the company “serious competitive injury” because it would allow competitors to contact its “customer[s] regarding solicitation of business[.]” Upon review of Lason’s arguments and submitted information, we find that the company has demonstrated that the customer information it seeks to withhold is excepted from disclosure under section 552.110(b). We therefore conclude that the district must withhold the submitted information under this exception.

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 ten 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 Office of the Attorney General 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. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,



Robert B. Rapfogel
Assistant Attorney General
Open Records Division

RBR/eb

Ref: ID# 255667

Enc. Submitted documents

c: Mr. Denny O'Neill
Vice President & General Manager
General Micrographics Corporation
P. O. Box 156
McGregor, Texas 76657-0156
(w/o enclosures)

Ms. Gina L. Rostagno-Wallat
General Counsel
Lason Systems, Inc.
1305 Stephenson Highway
Troy, Michigan 48083
(w/o enclosures)