



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 30, 2009

Ms. Emily D. Newhouse
Schwartz & Echelbaum, P.C.
4201 West Parmer Lane, Suite A-100
Austin, Texas 78727

OR2009-04117

Dear Ms. Newhouse:

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# 338454.

The Mission Consolidated Independent School District (the "district"), which you represent, received a request for five categories of information pertaining to 08-09-RQ7- School Tax Attorneys. You state that you have released some of the requested information. Although you take no position with respect to the public availability of the remaining information, you believe that the request may implicate the proprietary interests of Linebarger, Goggan, Blair, & Sampson, L.L.P. ("Linebarger.") Thus, pursuant to section 552.305 of the Government Code, you have notified Linebarger of the request and of its right to submit arguments to this office as to why its information should not be released.¹ *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 under in certain circumstances). We have reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹Although the requestor asserts that the district failed to comply with section 552.305(e) of the Government Code, we note that this provision applies to third parties notified under section 552.305(d), not the district. *See id.* § 552.305.

Initially, we must address the requestor's contention that the district failed to comply with the requirements of section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. You inform us the district was closed for a holiday on December 19, 2008 through January 5, 2009 as well as January 19, 2009. We note that this office does not count the date the request was received or holidays, as business days for the purpose of calculating a governmental body's deadlines under the Act. The district states it received the request for information on January 5, 2009. Accordingly, the tenth business day after the receipt of the instant request was January 20, 2009. We received the district's request for a decision to this office on January 20, 2009. Accordingly, we find that the district's request for a ruling was timely submitted.

Next, the requestor indicates that district failed to comply with subsection 552.301(e-1) of the Government Code because the requestor received the district's brief without enclosures. Section 552.301(e-1) provides the following:

A governmental body that submits written comments to the attorney general under Subsection (e)(1)(A) shall send a copy of those comments to the person who requested the information from the governmental body. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the person must be a redacted copy.

Gov't Code § 552.301(e-1). Upon review, we find that the district did not redact information pertaining to the substance of the information requested. Thus, we conclude that the district fully complied with the requirements of section 552.301 in requesting this decision.

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 it should be withheld from disclosure. See Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any arguments from Linebarger. We thus have no basis for concluding that any portion of the submitted information constitutes proprietary information of Linebarger, and the district may not withhold any portion of the submitted information on that basis. See 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). As no exceptions to disclosure have been raised, the district must release the submitted information to the requestor.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 338454

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

Linebarger Goggan Blair & Sampson, L.L.P.
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(w/o enclosures)