



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 2, 2009

Mr. Jeffrey L. Moore  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2009-07493

Dear Mr. Moore:

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# 344830.

The City of Southmayd (the "city"), which you represent, received a request for a specified contract. You claim that a portion of the submitted information must be withheld, based on a previous determination issued by this office, or excepted from disclosure under section 552.110 of the Government Code. Further, you state that the submitted documents may contain proprietary information subject to exception under the Act. Accordingly, you provide documentation showing that the city notified Kasner & Associates ("Kasner") of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). Kasner has responded to this notice and also argues that a portion of the submitted information is either subject to a previous determination issued by this office or excepted from disclosure under section 552.110 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Both the city and Kasner claim that some of the requested information is the subject of a previous request for information to which this office issued Open Records Letter

No. 2006-04654 (2006). Although the city and Kasner seek to rely on Open Records Letter No. 2006-04654 as a previous determination, we note that the governmental body involved in that ruling was the Town of Addison. Further, the information at issue in Open Records Letter No. 2006-04654 concerned bid proposals, while the present submitted information consists of a contract between the city and Kasner. Because the present request for information was received by a different governmental body, and because the information at issue is not precisely the same, Open Records Letter No. 2006-04654 cannot be relied on as a previous determination. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

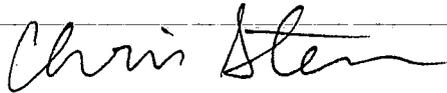
Next, both the city and Kasner assert that a portion of the submitted information is excepted under section 552.110 of the Government Code. However, we note that section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we will only address Kasner's claim under section 552.110. Section 552.110 protects: (1) trade secrets, and (2) commercial or financial information the disclosure of which would cause substantial competitive harm to the person from whom the information was obtained. *See* Gov't Code § 552.110(a), (b). Although Kasner raises section 552.110 of the Government Code, Kasner does not submit any arguments explaining how the exception applies to the submitted information. Thus, we find that Kasner has failed to demonstrate how any of the submitted information is confidential under section 552.110 of the Government Code. *See id.*; Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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). Accordingly, no portion of the submitted information may be withheld under section 552.110 of the Government Code. As neither the city nor Kasner raise any further exceptions to disclosure, the submitted information must be released 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](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,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 344830

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Kyle Kasner  
Kasner & Associates  
P.O. Box 1431  
Addison, Texas 75001  
(w/o enclosures)