



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 17, 2009

Ms. Karen Blakey  
City Secretary  
City of Krum  
P.O. Box 217  
Krum, Texas 76249

OR2009-08367

Dear Ms. Blakey:

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# 346255.

The City of Krum (the "city") received a request for information related to the city's "2009 Mowing Bid." You claim the requested information is excepted from disclosure under section 552.110 of the Government Code. You also state release of this information may implicate the proprietary interests of 2 Fat Guys and a Mower ("Fat Guys"), Cole Construction ("Cole"), KJ Landscapes, L.L.C. ("KJ"), and Sprinkle N' Sprout ("Sprinkle"). Thus, pursuant to section 552.305 of the Government Code, you state you have notified Fat Guys, Cole, KJ, and Sprinkle of the request and of their rights to submit arguments to this office as to why their 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 under in certain circumstances). We have considered the exception you claim and have reviewed the submitted information.

Initially, we note that an interested third party is allowed ten business days after the date of its receipt of a governmental body's notice under section 552.305(d) of the Government Code 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, we have not received arguments from Fat Guys, Cole, KJ, or Sprinkle. We thus

have no basis for concluding that any portion of the submitted information constitutes proprietary information of these companies, and the city may not withhold any portion of the submitted information on that basis. *See id.* § 552.110; Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 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).

Next, you raise section 552.110 of the Government Code. We note, however, section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. Therefore, because Fat Guys, Cole, KJ, or Sprinkle have not objected to release of the submitted information, the city may not withhold any of the submitted information under section 552.110 of the Government Code.

We note, however, sections 552.130 and 552.136 of the Government Code are applicable to the submitted information.<sup>1</sup> Section 552.130 excepts from public disclosure information that relates to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(1)-(2). Accordingly, the city must withhold the Texas motor vehicle record information we have marked under section under section 552.130 of the Government Code. *See* Transp. Code § 501.002(14)(B) (motor vehicle means a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds).

Section 552.136 states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136. Upon review, we determine the insurance policy numbers we have marked constitute access devices numbers purposes of section 552.136. Therefore, the city must withhold the marked insurance policy numbers under section 552.136 of the Government Code.

In summary, the city must withhold the information we have marked under sections 552.130 and 552.136 of the Government Code. The remaining information must be released.

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.

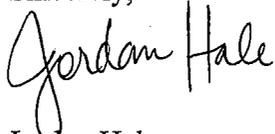
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Jordan Hale  
Assistant Attorney General  
Open Records Division

JH/jb

Ref: ID# 346255

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

2 Fat Guys and a Mower  
P.O. Box 169  
Lake Dallas, Texas 75065  
(w/o enclosures)

Cole Construction  
c/o Ms. Karen Blakey  
City Secretary  
City of Krum  
P.O. Box 217  
Krum, Texas 76249  
(w/o enclosures)

RJ Landscapes, L.L.C.  
P.O. Box 157  
Krum, Texas 76249  
(w/o enclosures)

Sprinkle N'Sprout  
10315 Alta Vista Road  
Keller, Texas 76248  
(w/o enclosures)