



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 18, 2009

Mr. George E. Hyde
Denton, Navarro, Rocha & Bernal, P.C.
2517 North Main Avenue
San Antonio, Texas 78212

OR2009-11545

Dear Mr. Hyde:

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# 352757.

The City of Garden Ridge (the "city"), which you represent, received a request for the house plans of a specified address. You claim the submitted information must be withheld pursuant to copyright law. You also assert the release of this information may implicate the proprietary interests of third parties. Accordingly, you inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, the city notified the third parties, Advanced Engineering Solutions ("AES") and The Heights Design and Construction ("HDC"), of the request for information and of their 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). We have considered your arguments and reviewed the submitted information.

Initially, we note 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) of the Government Code 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). We have received comments from AES, but they claim no exceptions and make no arguments against disclosure of the requested information. Further, as of the date of this letter, HDC has not submitted to this office any reasons explaining why the requested information should not be released. Therefore, we have no basis to conclude HDC has protected interests in the submitted information, and the information may not be withheld 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). Accordingly, we conclude the city may not withhold any portion of the submitted information on the basis of any proprietary interests of AES and HDC.

You note the submitted materials appear to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990). Accordingly, the submitted information may only be released in accordance with copyright law.

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,



Karen E. Stack
Assistant Attorney General
Open Records Division

KES/jb

Ref: ID# 352757

Enc. Submitted documents

c: Requestor
(w/o enclosures)