



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 19, 2010

Mr. David Daugherty  
Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002

OR2010-05555

Dear Mr. Daugherty:

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# 376861 (C.A. File: 10GEN0297).

The Harris County Purchasing Department (the "county") received a request for the proposal submitted by Pierpont Communications, Inc. ("Pierpont") in response to job number 09/0439. You state you are releasing some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also state that release of this information may implicate the proprietary interests of Pierpont. Accordingly, you have notified Pierpont of this 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); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exception you claim and reviewed the submitted information.

Although the county raises section 552.110 of the Government Code for Pierpont's information, section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the county's argument under section 552.110 for the submitted information. 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) to submit its reasons, if any, as to why information relating to that party

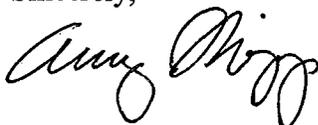
should be withheld from public disclosure. See Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Pierpont has not submitted comments to this office explaining why any portion of the submitted information should not be released to the requestor. Therefore, we have no basis to conclude that Pierpont has a protected proprietary interest in the submitted information. See *id.* § 552.110; 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. Accordingly, the county may not withhold any portion of the submitted information on the basis of any proprietary interests that Pierpont may have in this information.

We note the submitted information is 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). As no further exceptions to disclosure have been raised, the county must release the submitted information to the requestor 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](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, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/rl

Ref: ID# 376861

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

c: Ms. Nancy Sims  
Senior Vice President  
Pierpont Communications, Inc.  
1800 West Loop South, Suite 800  
Houston, Texas 77027  
(w/o enclosures)