



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 4, 2013

Ms. Linda Pemberton  
Paralegal  
City of Killeen  
P.O. Box 1329  
Killeen, Texas 76540-1329

OR2013-00192

Dear Ms. Pemberton:

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# 475095 (Killeen ID# W009123).

The City of Killeen (the "city") received a request for drawings showing sewer lines, easements, and utilities pertaining to two specified properties and reports or complaints pertaining to a specified incident from a specified period of time.<sup>1</sup> You state you have released some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Killeen Engineering & Surveying, Ltd. ("KES") and Vera & Associates, L.C. ("Vera"). Accordingly, you provide documentation showing you have notified KES and Vera of the request and their right to submit arguments to this office. *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

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<sup>1</sup>You indicate the city received clarification of the request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

exception in the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

You raise section 552.110 of the Government Code. We note, however, section 552.110 is designed to protect the interests of third parties, such as KES and Vera, not the interests of a governmental body. Thus, we do not address your arguments under section 552.110 of the Government Code, and the submitted information may be withheld under section 552.110 based only on arguments from KES and Vera. 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). As of the date of this letter, we have not received arguments from KES or Vera. We, thus, have no basis for concluding any portion of the submitted information constitutes the proprietary information of the third party. 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 city may not withhold any of the submitted information based on the proprietary interests of KES or Vera. As no other exceptions to disclosure have been raised, the submitted 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 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,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/tch

Ref: ID# 475095

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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