



February 17, 2015

Ms. Linda Pemberton
Paralegal
Office of the City Attorney
City of Killeen
P.O. Box 1329
Killeen, Texas 76540

OR2015-03139

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# 554329 (City ID# W014970).

The City of Killeen (the "city") received a request for the engineering report related to a specified address. Although we understand you to take no position as to whether the submitted information is excepted under the Act, you inform us its release may implicate the proprietary interests of Kastel Consulting, Inc. ("Kastel"). Accordingly, you state, and provide documentation demonstrating, the city notified Kastel of the request for information and of its right to submit arguments stating why its information should not be released. *See Gov't Code § 552.305(d)* (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information.

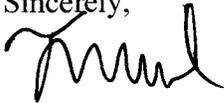
We note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See Gov't Code § 552.305(d)(2)(B)*. As of the date of this decision, we have not received correspondence from Kastel. Therefore, we have no basis to conclude Kastel has any protected proprietary interest in the submitted information. *See id.* § 552.110(a)-(b); 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 portion of the submitted information based upon the proprietary interests of Kastel. As no exceptions to disclosure have been raised, the city must release the submitted information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 554329

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Jay Victor Hamm
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5114 Balcones Woods Drive, Suite 307
Austin, Texas 78759
(w/o enclosures)