



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 29, 2015

Ms. Criselda Palacios
City Attorney
City of Edinburg
P.O. Box 1079
Edinburg, Texas 78540

OR2015-08337

Dear Ms. Palacios:

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# 561789.

The City of Edinburg (the "city") received a request for the house plans for a specified property. Although you take no position as to whether the submitted information is excepted from public disclosure under the Act, you state the release of the submitted information may implicate the proprietary interests of Riche Designs. Further, you state the release of the submitted information may implicate the interests of the owner of the property at issue. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their rights to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code §§ 552.304 (interested third party may submit comments stating why information should or should not be released), .305(d); *see also* 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 exceptions to disclosure under the Act in certain circumstances). We have reviewed the submitted representative sample of information.¹

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) 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, we have not received

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

comments from Riche Designs explaining why its information should not be released. Therefore, we have no basis to conclude Riche Designs 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 city may not withhold any of the submitted information on the basis of any proprietary interest Riche Designs may have in it. In addition, we note we have not received comments from the property owner.

We further note the submitted information may be protected by copyright. A custodian of public records must comply with copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). 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. As we have not received any arguments against disclosure, the submitted information must be released; however, the city may only release the information subject to copyright 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.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,



Alley Latham
Assistant Attorney General
Open Records Division

AKL/dls

Ref: ID# 561789

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Ricardo Herrera
Riche Designs
1610-B Irongate Drive
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(w/o enclosures)