



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 24, 2015

Ms. Lisa Harvell
Program Specialist
Architecture Division
Texas Historical Commission
P. O. Box 12276
Austin, Texas 78711-2276

OR2015-12466

Dear Ms. Harvell:

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# 568421.

The Texas Historical Commission (the "commission") received a request for compliance information regarding the antenna installation at a specified address. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interest of Metro PCS ("Metro"), ArchComm Designs, Inc. ("ArchComm"), and Allpro Consulting Group, Inc. ("Allpro"). Accordingly, you state you notified these parties of the request for information and of their rights to submit arguments to this office as to why the information at issue should not be released. *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 exception in the Act in certain circumstances). We have reviewed the submitted information.¹

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 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 comments from Metro, ArchComm, or Allpro explaining why the submitted information should not be released. Therefore, we have no basis to conclude any of the parties have 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 commission may not withhold the submitted information on the basis of any proprietary interest a notified party may have in the information. As no exceptions to disclosure have been raised, the commission 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,



Cole Hutchison
Assistant Attorney General
Open Records Division

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¹We note the commission did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nevertheless, because the interest of a third party can provide a compelling reason to overcome the presumption of openness, we will consider third party interests for the submitted information. *See id.* §§ 552.007, .302, .352.

Ref: ID# 568421

Enc. Submitted documents

c: Requestor
(w/o enclosures)

ArchComm Designs, Inc. Architects
1840 Lockhill-Selma, Suite 101
San Antonio, Texas 78213
(w/o enclosures)

Allpro Consulting Group, Inc.
9221 Lyndon B. Johnson Freeway, Suite 204
Dallas, Texas 75243
(w/o enclosures)

Metro PCS
6510 Windcrest Drive, Suite 130
Plano, Texas 75024
(w/o enclosures)