



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 17, 2015

Mr. Brandon S. Davis
Attorney for the City of Liberty
Fielder, Gunter & Davis
1517 Trinity Street
Liberty, Texas 77575

OR2015-19471

Dear Mr. Davis:

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# 579635.

The City of Liberty (the "city"), which you represent, received a request for all site development and building permits issued or approved for the existing improvements, building and parking, located at a specified address. Although the city takes no position as to whether the submitted information is excepted from disclosure under the Act, you state release of the information may implicate the proprietary interests of GLE Associates, Inc.; GLE; P. Marshall & Associates, L.L.C.; Supersonic Property Management, L.L.C.; and Verizon Wireless. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of the companies' rights to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305 (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.

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 any of the third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude these third parties have protected proprietary interests 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 the submitted information on the basis of any proprietary interest these third parties may have in the information.

We note some of the materials at issue are 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. 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. Thus, the city must release the submitted information, but may only release any copyrighted information 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,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/akg

Ref: ID# 579635

Enc. Submitted documents

c: Requestor
(w/o enclosures)

P. Marshall & Associates, LLC
1000 Holcomb Woods Parkway, Suite 210
Roswell, Georgia 30076
(w/o enclosures)

GLE
917 Franklin, Suite 500
Houston, Texas 77002
(w/o enclosures)

GLE Associates, Inc.
3109 West Dr. Martin Luther King, Jr. Boulevard, Suite 550
Tampa, Florida 33607
(w/o enclosures)

Verizon Wireless
5959 Corporate Drive
Houston, Texas 77036
(w/o enclosures)

Supersonic Property Management
16 Bayberry Drive
Holmdel, New Jersey 07733
(w/o enclosures)