



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 17, 2016

Mr. Jeffrey W. Giles
Assistant City Attorney
Legal Department
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2016-06182

Dear Mr. Giles:

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# 601911 (GC No. 22922).

The City of Houston (the "city") received a request for the bid tabulation sheet related to a specified pest control services contract award.¹ Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Right Now Termite and Pest Control; Terminix; BugMaster Termite & Pest Control; Assurance Pest Control, Inc.; and Pied Piper Pest Control. Accordingly, you state, and provide documentation showing, you notified the third parties of the request for information and of their rights to submit arguments to this office as to why the submitted information 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.

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 comments from any

¹The city acknowledges it did not comply with section 552.301 of the Government Code when it requested a ruling from this office. *See Gov't Code* § 552.301(e). Nonetheless, because a third-party interest can provide a compelling reason to overcome the resulting presumption of openness, we will consider the applicability of such interests to the submitted information. *See id.* §§ 552.007, .302, .352.

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



Joseph Behrke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 601911

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Tracy Vrooman
Terminix
11777 West Sam Houston Pkwy
Houston, Texas 77031
(w/o enclosures)

Ms. Gail Appling
BugMaster Termite & Pest Control
4410 FM 1960 E, Suite A
Humble, Texas 77346
(w/o enclosures)

Mr. Albert J. Bloom, Sr.
Assurance Pest Control, Inc.
707 Remington Walk Court
Houston, Texas 77073
(w/o enclosures)

Ms. Dannie Liggans
Right Now Termite & Pest Control
103 Glenborough
Houston, Texas 77067
(w/o enclosures)

Mr. Brett Collier
Pied Piper Pest Control
12103 Jones Maltsberger
San Antonio, Texas 78247
(w/o enclosures)