



THE ATTORNEY GENERAL
OF TEXAS

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ATTORNEY GENERAL

April 6, 1990

Mr. Allen P. Beinke
Executive Director
Texas Water Commission
P. O. Box 13087, Capitol Station
Austin, Texas 78711-3087

OR90-134

Dear Mr. Beinke:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 8844.

The Texas Water Commission is currently investigating TechniCoat Inc., for noncompliance with certain commission rules pertaining to solid waste management. The commission received two requests for copies of documents concerning this facility. You state that the commission intends to release to TechniCoat, who is one of the requestors, its entire file, but you inquire whether you must also release the file to the second requestor.

Although you do not contend that the documents should not be released to both requestors, you state that TechniCoat has asserted that the requested information comes under the protection of sections 3(a)(1), 3(a)(2), 3(a)(3), 3(a)(4), 3(a)(10), 3(a)(11), and 3(a)(13), and should not be released to the second requestor. We interpret your request as one made pursuant to section 7(c) of the Open Records Act, which provides:

(c) In cases in which a third party's privacy or property interests may be implicated, including but not limited to subdivisions (1), (4), (10), and (14) of Subsection (a) of Section 3 of this Act, the governmental body may decline to release the information in order to request an attorney general opinion. A person whose interests may be implicated or any other person may submit in writing to the attorney general the person's reasons for withholding or releasing the

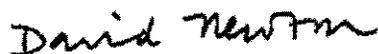
information. In such cases, the governmental body may, but is not required to, submit its reasons why the information should or should not be withheld. (Emphasis added.)

Section 7(c) limits third parties' arguments against the release of information to issues pertaining to that parties' privacy and property interests. Consequently, because sections 3(a)(3) and 3(a)(11) do not implicate such interests, this office is not authorized in this instance to consider the applicability of those exceptions.

We have examined the documents at issue and have determined that none of the requested information implicates privacy interests. Similarly, it is not apparent from the face of the documents how the release of this information would reveal trade secrets or other commercial information the release of which would result in competitive harm to TechniCoat. See generally Open Records Decision No. 232 (1979); see also Open Records Decision No. 504 (1988) (section 3(a)(13) does not protect information about oil company's voluntary pollution-abatement activities where it is not shown how release of the information would cause substantial competitive injury). For these reasons, the requested information must be released to both requestors.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-134.

Yours very truly,



David A. Newton
Assistant Attorney General
Opinion Committee

DAN/RWP/le

Ref.: ID# 8916, 8844, 9154, 9224

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