



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 31, 1992

Mr. Rodman C. Johnson
Staff Attorney
Legal Division
Texas Air Control Board
12124 Park 35 Circle
Austin, Texas 78753

OR92-707

Dear Mr. Johnson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 18014.

The Texas Air Control Board (the "board") has received a request for information relating to fuel recycling operations in Midlothian, Texas. Specifically, the requestor seeks the names of clients of Texas Industries Cement Company. You have submitted to us for review documents reflecting the names of clients and information relating to the types and amounts of toxic waste supplied by the clients. Because the requestor seeks only the names of the clients, however, we need not address the remaining information submitted to us for review.

Pursuant to section 7(c) of the act, we have notified Texas Industries, Inc. ("TXI") and have solicited arguments in support of your assertion that section 3(a)(10) of the Open Records Act excepts the requested information from required public disclosure. In response, we have received a letter from TXI, in which it asserts that section 3(a)(10) excepts the requested information from required public disclosure. Section 3(a)(10) protects the property interests of private persons by excepting from required public disclosure two types of information: (1) trade secrets, and (2) commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision. TXI claims that the information submitted to us for review constitutes "trade secrets."

The Texas Supreme Court has adopted the definition of trade secret from section 757 of the Restatement of Torts. *Hyde Corp. v. Huffines*, 314 S.W.2d 763, 776 (Tex.), cert. denied, 358 U.S. 898 (1958); see also Open Records Decision No. 552 (1990) at 2. Section 757 provides that a trade secret is

any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain

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