



ATTORNEY GENERAL OF TEXAS  
G R E G A B B O T T

December 22, 2005

Ms. Tina Knudsen  
Records Management Officer  
Lockhart Independent School District  
P.O. Box 120  
Lockhart, Texas 78644-0120

OR2005-11564

Dear Ms. Knudsen:

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# 238608.

The Lockhart Independent School District (the "district") received a request for the "[r]esponse to Bid on Library Collection for new Pre-K – 5 Elementary School provided by the winning bidder, Perma-Bound." You inform us that pursuant to section 552.305 of the Government Code you notified interested third party Perma-Bound of the request and of its opportunity to submit comments to this office. *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 that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have reviewed the information you have submitted.

Initially, we note that the district has not sought an open records decision from this office within ten business days as required by section 552.301(b) of the Government Code. *See* Gov't Code § 552.301(b). In addition, you failed to submit, within fifteen business days, a copy, or representative sample, of the specific information at issue as required by section 552.301(e) of the Government Code. *See* Gov't Code § 552.301(e)(1)(A), (D). The district's delay in this matter results in the presumption that the requested information is public. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). Generally speaking, a

compelling reason for non-disclosure exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). We will therefore consider whether any of the submitted information must be withheld to protect third party interests.

Although we received no correspondence from Perma-Bound, you have submitted Perma-Bound's e-mail to the district dated September 29, 2005. We will therefore treat this letter as Perma-Bound's comments under section 552.305 of the Government Code. See Gov't Code § 552.305(d)(2)(B). In its e-mail, Perma-Bound objects to the release of the requested information. However, Perma-Bound does not claim that such information is protected under any of the exceptions to disclosure in the Act. Thus, Perma-Bound has provided this office with no basis to conclude that the submitted information is excepted from disclosure. See, e.g., Gov't Code § 552.110(a)-(b); 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 (1990). We therefore conclude that the district must release the submitted information to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



L. Joseph James  
Assistant Attorney General  
Open Records Division

LJJ/segh

Ref: ID# 238608

Enc. Submitted documents

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