



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 1, 2007

Mr. A. Duane Waddill  
Executive Director  
Texas Residential Construction Commission  
P.O. Box 13144  
Austin, Texas 78711

OR2007-09714

Dear Mr. Waddill:

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# 285306.

The Texas Residential Construction Commission (the "commission") received a request for information regarding complaints received against Pulte Homes ("Pulte") d/b/a Del Webb. You state that you have provided some of the requested information to the requestor.<sup>1</sup> Although the commission takes no position on whether the submitted information is excepted from disclosure, you state that release of the submitted information may implicate Pulte's proprietary interests. Accordingly, you inform us that you have notified the company of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit reasons why requested information should not be released). You state that Pulte asserts that the submitted information is confidential. We have reviewed the submitted information.

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<sup>1</sup>We note that the requestor agreed to allow the commission to redact driver's license information, credit and debit card numbers, e-mail addresses, and social security numbers. *See* Gov't Code § 552.222 (governmental body may ask requestor to clarify or narrow scope of request). As this information is no longer encompassed by the request, it is not responsive and we do not address its availability in this ruling.

We note that 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 requested information relating to it should be withheld from disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, Pulte has not submitted to this office any reasons explaining why the submitted information should not be released to the requestor. We thus have no basis for concluding that any portion of the submitted information constitutes proprietary information of the third party, and the commission may not withhold any portion of the submitted information on that basis. *See 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). Accordingly, we conclude that the commission may not withhold any portion of the submitted information based on the proprietary interests of Pulte. As the commission makes no arguments against disclosure, the submitted information must be released 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).

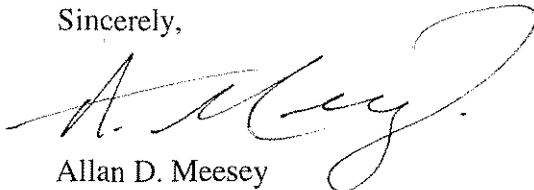
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

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,

A handwritten signature in black ink, appearing to read "A. Meeseey", written in a cursive style.

Allan D. Meeseey  
Assistant Attorney General  
Open Records Division

ADM/eeg

Ref: ID# 285306

Enc. Submitted documents

c: Ms. Margot Veranes  
2117 North 1<sup>st</sup> Avenue  
Tucson, Arizona 85719  
(w/o enclosures)