



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 9, 2009

Mr. Charles E. Zech
Denton, Navarro, Rocha & Bernal
2517 North Main Avenue
San Antonio, Texas 78212

OR2009-12686

Dear Mr. Zech:

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# 355020.

The City of Garden Ridge (the "city"), which you represent, received a request for three copies of house plans for a specified address and all of the permits requested for the specified address. You state the city has released the requested permits to the requestor. You claim some of the submitted information is excepted from disclosure pursuant to federal copyright law.¹ Furthermore, you claim the submitted information may contain proprietary information subject to exception under the Act. Accordingly, you state, and have provided documentation showing, that you notified Wild Wind Park, Hyden Design Group, Craftmen Builders, Inc., and GE Reaves Engineering, Inc. of the city's receipt of the request for information and of the companies' right to submit arguments to this office as to why their information should not be released to the requestor. *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 considered your argument and 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

¹Although you raise various exceptions under the Act, you have provided no arguments explaining how these exceptions are applicable to the submitted information. Therefore, we do not address these exceptions. Gov't Code § 552.301(e)(1)(A).

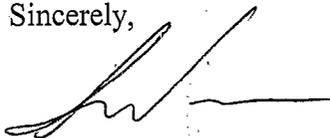
of the interested third parties explaining why their information should not be released. Therefore, we have no basis to conclude that any of these companies have protected proprietary interests in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent 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 (1990). Consequently, none of the submitted information may be withheld on that basis.

Finally, although you argue some of the submitted information is excepted from disclosure pursuant to federal copyright law, we note copyright law does not make information confidential. *See* Open Records Decision No. 660 at 5 (1999). However, we agree portions of the remaining information are protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990). Accordingly, the submitted information must be released to the requestor, but any information protected by copyright must be released in accordance with copyright law.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 355020

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Theresa Mauricio
Wild Wind Park
Lot 41 Block 00
Wild Wind Subdivision
Garden Ridge, Texas 78266
(w/o enclosures)

Hyden Design Group
P.O. Box 781226
San Antonio, Texas 78278
(w/o enclosures)

Craftsman Builders, Inc.
P.O. Box 29506
San Antonio, Texas 78247
(w/o enclosures)

GE Reaves Engineering, Inc.
P.O. Box 791793
San Antonio, Texas 78279-1793
(w/o enclosures)