



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 23, 2009

Mr. Ronald J. Bounds
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2009-15129

Dear Mr. Bounds:

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# 359193.

The City of Corpus Christi (the "city") received a request for the project plans for a specified address. You state the city has released some of the requested information. Although we understand you to take no position as to the release of the submitted information, you state that the submitted information may contain proprietary information subject to exception under the Act. Accordingly, you state, and provide documentation showing, that you notified Designs by Romel; Ferguson Enterprises, Inc.; Knight Architectural and Construction Services, Inc.; LNV Engineering; Smoothie King Franchises, Inc.; Voss Engineering, Inc.; and three named individuals of the request for information and of their right to submit arguments to this office as to why each party's information should not be released. *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 reviewed the submitted information.

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 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

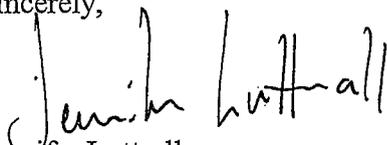
from any of the third parties explaining why the information at issue should not be released. We thus have no basis for concluding that any portion of the submitted information constitutes the proprietary information of these third parties, and none of it may be withheld on that basis. *See id.* § 552.110; 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).

We note that some of the submitted information is 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 protected by copyright. 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 materials protected by copyright, 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). As no exceptions to disclosure have been raised, the submitted information must be released, but any information subject to copyright may only be released in accordance with federal 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 359193

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Don Swain
Project Director
Ferguson Enterprises, Inc.
12500 Jefferson Avenue
Newport News, Virginia 23609
(w/o enclosures)

Mr. Zack M. Knight, P.E.
Knight Architectural and Construction Services, Inc.
7902 Corinth Drive
Corpus Christi, Texas 78413
(w/o enclosures)

Mr. Ronald A. Voss, P.E.
Voss Engineering, Inc.
6838 Greenwood Drive
Corpus Christi, Texas 78415
(w/o enclosures)

Designs by Romel
5849 Holly Road
Corpus Christi, Texas 78412
(w/o enclosures)

Smoothie King Franchises, Inc.
2400 Veterans Boulevard, Suite 110
Kenner, Louisiana 70062
(w/o enclosures)

Ms. Tina and Cathie Pena
5017 Saratoga Boulevard, Suite 101
Corpus Christi, Texas 78413
(w/o enclosures)

Mr. Felix H. Ocanas, Jr., P.E.
5001 Oakmont Drive
Corpus Christi, Texas 78413
(w/o enclosures)

Mr. Eric A. Trejo, P.E.
LNV Engineering
801 Navigation, Suite 300
Corpus Christi, Texas 78408
(w/o enclosures)