



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 11, 2010

Mr. B. Scott Osburn
Assistant City Attorney
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR2010-08550

Dear Mr. Osburn:

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# 382442.

The City of Killeen (the "city") received a request for the drainage plans for the Meadows of Trimmier, a residential subdivision of the city. You claim that the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also state that release of this information may implicate the proprietary interests of third parties. Accordingly, you have notified W&B Development, Ltd. ("W&B") and Vera & Associates, L.C. ("Vera") of this request for information and of their right to submit arguments to this office as to why their submitted information should not be released. *See Gov't Code* § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exception you claim and reviewed the submitted information.

Although the city raises section 552.110 of the Government Code for the submitted information, section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the city's argument under section 552.110 for 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 requested information relating to that party should be withheld from disclosure. *See Gov't Code* § 552.305(d)(2)(B). As of the date of this letter, W&B and Vera have not submitted comments to this office regarding how the release of their submitted information will affect their proprietary interests. Thus, we have no basis to conclude that the release of any portion

of the third parties' submitted information would implicate their proprietary interests. *See, e.g.,* Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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). Accordingly, the city may not withhold any portion of the submitted information on the basis of any proprietary interest W&B or Vera may have in the information. As no further exceptions to disclosure have been raised, the submitted information must be released.

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 Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 382442

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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Killeen, Texas 76543
(w/o enclosures)

Vera & Associates, L.C.
3707 Sierra Drive
Georgetown, Texas 78627
(w/o enclosures)