



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 22, 2010

Mr. Warren M.S. Ernst
Chief of the General Counsel Division
City of Dallas
City Hall
Dallas, Texas 75201

OR2010-17641

Dear Mr. Ernst:

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# 400747.

The City of Dallas (the "city") received a request for a copy of "all plats that have been stored electronically in the [c]ity's GIS" in ERSI file geodatabase format or shapefile format.¹ You state that the city will provide some of the requested information. You take no position on the public availability of the submitted information. You state, however, that release of the submitted information may implicate the proprietary interests of the Dallas Central Appraisal District ("DCAD"). You notified DCAD of this request for information and of its right to submit arguments to this office as to why the information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We received correspondence from an attorney for DCAD. We have also received correspondence submitted by the requestor. *See Gov't Code* § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted comments and reviewed the submitted information.

¹We note that the city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed).

DCAD represents it has copyrighted the information at issue. The requestor, however, asserts the information at issue is in the public domain and is not subject to copyright. Whether the information at issue is subject to copyright is a question of fact. This office is unable to resolve disputes of fact in the open records ruling process. Accordingly, we must rely upon the facts alleged to us by the governmental body requesting our opinion. *See* Open Records Decision No. 522 at 4 (1990). The city does not dispute that the information at issue is subject to copyright. Furthermore, DCAD represents that the city's use of this information is subject to the terms and conditions of a license granted to the city by DCAD. Accordingly, we conclude the information at issue is subject to copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). 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. Therefore, the submitted information may only be released in accordance with copyright law.²

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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/em

²DCAD notes the requestor has also sought the information at issue directly from DCAD. DCAD states it has offered to release the copyrighted information to the requestor pursuant to his purchase of a license for the use of the information. A copyright holder may place reasonable restrictions on the use of its copyrighted works. *See* U.S.C. 17 §§ 102, 103; Open Records Decision No. 660 at 5 (1999).

Ref: ID# 400747

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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