



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 9, 2010

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

OR2010-18503

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# 403290.

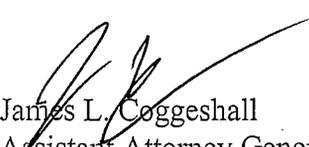
The City of Killeen (the "city") received a request for site plans, drainage and runoff documents, and other specified information related to specified properties. You state the city has made some of the requested information available to the requestor. You do not take a position as to whether the submitted information is excepted under the Act; however, you state, and provide documentation showing, you notified Killeen Sunflower, Inc., Killeen Engineering & Surveying, Mitchell & Associates, Inc., and a number of named individuals of the city's receipt of the request for information and of the right of each to submit arguments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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.

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* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, none of the interested third parties has submitted to this office any reasons explaining why the submitted information should not be released. We thus have no basis for concluding any portion of the submitted information constitutes proprietary information of these interested third parties, and the city 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, 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. Accordingly, the city must release the submitted information to the requestor.

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](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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/eb

Ref: ID# 403290

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

Mr. Gary Purser  
Killeen Sunflower, Inc.  
2901 Stan Schlueter Loop  
Killeen, Texas 76542  
(w/o enclosures)

Killeen Engineering & Surveying  
2901 Stan Schlueter Loop  
Killeen, Texas 76542  
(w/o enclosures)

Mitchell & Associates, Inc.  
102 North College Street  
Killeen, Texas 76541  
(w/o enclosures)

Ms. Marie E. Buchholz, Marvin R. Schulze, Eldon W. Schulze,  
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and Dennis L. Schulze  
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(w/o enclosures)