



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 30, 2010

Mr. Richard M. Abernathy
Abernathy, Roeder, Boyd & Joplin, P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2010-19544

Dear Mr. Abernathy:

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# 404578.

The City of Frisco (the "city"), which you represent, received a request for the "Development Study Comparison for Allen, Frisco, McKinney, and Plano prepared by Huitt-Zollars, Inc." Although you take no position as to the disclosure of the submitted information, you state that it may contain proprietary information subject to exception under the Act. Accordingly, you state, and provide documentation showing, that you notified the Frisco Developers Council (the "FDC") of the request for information and of its right to submit arguments to this office as to why the submitted 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 received comments from FDC. We have considered the submitted arguments and reviewed the submitted information.

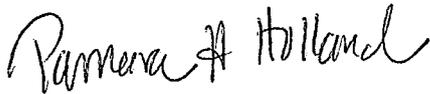
FDC states that the Development Study Comparison for Allen, Frisco, McKinney, and Plano is a study that is made available to the public for a fee by FDC. Section 552.027 of the Government Code provides that a governmental body is not required under the Act to allow the inspection of information in a commercial publication purchased or acquired by the governmental body for research purposes if the publication is commercially available to the public. *See Gov't Code* § 552.027(a). Accordingly, based upon FDC's representations, we

conclude that such commercially available information falls within the scope of section 552.027 and need not be released to the requestor. As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

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/eeg

Ref: ID# 404578

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

Mr. William S. Dahlstrom
Jason Walker L.L.P.
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Dallas, Texas 75202
(w/o enclosures)