



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 30, 2011

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

OR2011-09324

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# 422590.

The City of Killeen (the "city") received a request for a specified subdivision's drainage area map and calculations. Although you take no position with respect to the public availability of the requested information, you state release of this information may implicate the proprietary interests of Winfield Group, Limited ("Winfield") and Mitchell & Associates ("Mitchell"). You inform us, and provide documentation showing, pursuant to section 552.305 of the Government Code, the city has notified the interested third parties of the request and of their right to submit arguments to this office explaining why their submitted information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information.

Initially, we note most of the submitted information is not responsive to the request for information because it does not consist of the drainage area map or calculations specified in the request. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release that information in response to the request.

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) of the Government Code 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, we have not received comments from Winfield or Mitchell. We, thus, have no basis for concluding that any portion of the responsive information constitutes proprietary information of Winfield or Mitchell. *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. Accordingly, the city may not withhold any of the responsive information based on the proprietary interests of Winfield or Mitchell. As no arguments are raised against the disclosure of the responsive information, it 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](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,

A handwritten signature in black ink, appearing to read "Jennifer Burnett", with a long horizontal line extending to the right.

Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 422590

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. James D. McLean, Jr.  
President  
Winfield Group, Limited  
P.O. Box 1183  
Killeen, Texas 76540  
(w/o enclosures)

Mr. Mike Kriegel  
Mitchell & Associates  
102 College Street  
Killeen, Texas 76541  
(w/o enclosures)