



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 7, 2011

Mr. John Knight
Deputy City Attorney
City of Denton
215 East McKinney
Denton, Texas 76201

OR2011-09627

Dear Mr. Knight:

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# 423003.

The City of Denton (the "city") received a request for fuel flowage at Denton airport for the last year. Although you state the city takes no position as to the public availability of the submitted information, you state its release may implicate the proprietary interests of BusinessAir and Nebrig & Associates, Inc. ("Nebrig"). Accordingly, you notified BusinessAir and Nebrig of the request and of each company's right to submit arguments to this office explaining why its 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 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.

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 information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from BusinessAir or Nebrig explaining why any portion of the submitted information should not be released. Therefore, we have no basis to conclude BusinessAir and Nebrig have any protected proprietary interests in the submitted information. *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 (1990). Consequently, the city may not withhold any of the submitted information based on the proprietary interest of either BusinessAir or Nebrig. As no exceptions to disclosure are raised, the city must release 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/bs

Ref: ID# 423003

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. R. Damon Ward
President
Business Air
5007 Airport Road
Denton, Texas 76207
(w/o enclosures)

Mr. Mike Nebrig
Nebrig and Associates, Inc.
4801 John Carrell Road
Denton, Texas 76207
(w/o enclosures)