



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 26, 2011

Ms. Marcia Schreiber
Legal Assistant
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR2011-10723

Dear Ms. Schreiber:

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# 424910 (City of Galveston ORR No. 11-211).

The City of Galveston (the "city") received a request for any records related to the collapse of a specified building on a specified date. Although the city takes no position with respect to the public availability of the submitted information, you state its release may implicate the proprietary interests of Grant Mackay Company and Dean L. Webb & Associates (collectively, the "third parties"). Accordingly, you notified the third parties of the request and of their right to submit arguments to this office as to why their information should not be released. *See Gov't Code § 552.305(d); 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 the applicability of exception to disclose under Act in certain circumstances). We have reviewed the submitted information.

We note that 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, this office has not received comments from either of the interested third parties explaining why their submitted information should not be released. Therefore, we have no basis to conclude that either of the interested third parties have a protected proprietary interest 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. Accordingly, the city may not withhold any portion of the submitted information based upon the proprietary interests of the third parties. As no exceptions to disclosures are asserted, the submitted information 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, 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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/tf

Ref: ID# 424910

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Dean L. Webb
Dean L. Webb & Associates
580 East 9400 South
Sandy, Utah 84070
(w/o enclosures)

Mr. Grant Mackay
Grant Mackay Company
525 North Sam Houston Parkway East,
#610
Houston, Texas 77060
(w/o enclosures)