



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 6, 2011

Ms. Cara Leahy White
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2011-12867

Dear Ms. White:

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# 428972.

The City of Southlake (the "city"), which you represent, received a request for all plats, submittals, and applications for permits that were submitted on behalf of the Goddard School and any staff reports that were presented to the Planning and Zoning Commission and/or the city council regarding that school. You state some of the requested information will be released. Although the city takes no position as to whether the submitted information is excepted under the Act, you inform us release of the submitted information may implicate the proprietary interests of Blake Wilson Engineering, P.L.L.C.; DeOtte, Inc.; DFL Group, L.L.C.; D.R. Associates Architects, RRLD, L.P.; Triangle Engineering, L.L.C.; and Whitworth Engineering (collectively, the "third parties"). Thus, pursuant to section 552.305 of the Government Code, you notified the third parties of the request and of their 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) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under 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, the third parties have not

submitted comments to this office explaining why the submitted information should not be released. Therefore, we have no basis to conclude that these companies 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.

We note that some of the submitted information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. As no exceptions to disclosure have been raised, the submitted information must be released, but any information protected by copyright may only be released in accordance with copyright law.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/sdk

Ref: ID# 428972

Enc. Submitted documents

c: Requestor
(w/o enclosures)

DeOtte, Inc.
2553 East Loop 820 North
Fort Worth, Texas 76118
(w/o enclosures)

DFL Group, L.L.C.
8233 Mid Cities Boulevard
North Richland Hills, Texas 76180
(w/o enclosures)

Triangle Engineering, L.L.C.
TX PE Firm # 11525
1503 Astoria Drive
Allen, Texas 75013
(w/o enclosures)

Mr. Russell J. Whitworth
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4200 North Main Street, Suite 150
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Mr. T. Blake Wilson
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637 West Hurst Boulevard
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