



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 26, 2011

Mr. Warren M. S. Ernst  
Chief of the General Counsel Division  
City of Dallas  
1500 Marilla Street, Room 7BN  
Dallas, Texas 75201

OR2011-13863

Dear Mr. Ernst:

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# 430916.

The City of Dallas (the "city") received a request for a specified power point presentation related to the bowling alley on Lower Greenville Avenue. Although you take no position with respect to the public availability of the submitted information, you state that it may contain proprietary information subject to exception under the Act. Accordingly, you state you notified the interested third party of the request for information and of the party's 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 reviewed the submitted information.

We note 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 not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any comments from the interested third party objecting to the release of the responsive information. Thus, the interested third party has failed to demonstrate it has a protected proprietary interest in any of the responsive information. *See id.* § 552.110(a)-(b); 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). Accordingly, the city may not withhold any of the responsive information based on the proprietary interests of the interested third party.

We note that some of the submitted information may be subject to section 552.130 of the Government Code. Section 552.130(a)(2) provides that information relating to a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)). The city must withhold the information we have marked under section 552.130 of the Government Code.

We note that some of the submitted information appears to 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. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* 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. *See* Open Records Decision No. 550 (1990).

In summary, we have marked the information the city must withhold under section 552.130 of the Government Code. The remaining information must be released, but any information protected by copyright must 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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 430916

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Bruce Richardson  
5607 Richmond Avenue  
Dallas, Texas 75206  
(w/o enclosures)