



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 3, 2011

Mr. Gary A. Scott  
Assistant City Attorney  
City of Conroe  
P.O. Box 3066  
Conroe, Texas 77305

OR2011-16169

Dear Mr. Scott:

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# 435609.

The City of Conroe (the "city") received a request for information pertaining to the submitted/approved permits, certificates of occupancy, and building plans of a specified property. You state you have released some of the responsive information to the requestor. You state you do not maintain any responsive certificates of occupancy.<sup>1</sup> You state that, although the city takes no position with respect to the remaining requested information, it may implicate the interests of third parties. Accordingly, you state the city notified the third parties of the request for information and of their right to submit arguments stating why their information should not be released.<sup>2</sup> See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); 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.

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<sup>1</sup>In responding to a request for information under the Act, a governmental body is not required to disclose information that did not exist at the time the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990).

<sup>2</sup>The third parties notified pursuant to section 552.305 are: Joseph Welge ("Welge"), McCon Building Corporation ("McCon"), and Wendy Martin ("Martin").

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 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, this office has not received comments from any of the interested third parties explaining why their information should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the remaining information would implicate the third parties' interests. *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, we conclude that the city may not withhold any of the submitted information on the basis of any interest Welge, McCon, or Martin may have in the information. As you raise no exceptions to disclosure of the submitted 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,



Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/sdk

Ref: ID# 435609

Enc. Submitted documents

c: Requestor  
(w/o enclosures)