



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 12, 2011

Mr. Damon C. Derrick
General Counsel
Stephen F. Austin State University
P.O. Box 13065, SFA Station
Nacogdoches, Texas 75962-3065

OR2011-18258

Dear Mr. Derrick:

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# 438773.

Stephen F. Austin State University (the "university") received a request for the beverage agreement between the university and the Coca-Cola Bottling Company ("Coke") and/or Coke's authorized bottler/distributor. You state that some of the requested information may be subject to federal copyright law. You also state that, although the university takes no position with respect to the requested information, it may implicate the interests of Coke. Accordingly, you state, and provide documentation demonstrating, the university notified Coke of the request for information and of its right to submit arguments stating 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); 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 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 Coke explaining why its information should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the requested information would

implicate Coke's 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 university may not withhold any of the submitted information on the basis of any interest Coke may have in the information. As no exceptions to disclosure have been raised, the university must release the submitted information.

The university contends some of the information may be subject to federal copyright law. 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). Upon review, however, we find that none of the submitted information is subject to federal copyright laws.

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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 438773

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Nacogdoches Coca-Cola Bottling Company
Attn: Division Vice President and General Manager
3321 Northwest Stallings Drive
Nacogdoches, Texas 75963
(w/o enclosures)

Coca-Cola Enterprises, Inc.
Attn: General Counsel
2500 Windy Ridge Parkway
Atlanta, Georgia 30339
(w/o enclosures)