



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 11, 2012

Ms. Rebecca Brewer
Abernathy Roeder Boyd & Joplin, P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2012-05174

Dear Ms. Brewer:

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# 450564.

The City of Frisco (the "city"), which you represent, received a request for a copy of construction and foundation plans for a specified property. You claim that the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also state the requested information may implicate the proprietary interests of third parties. Accordingly, you inform us, and provide documentation showing, you notified Larry Smith Engineering ("LSE") and Pierce Custom Homes ("PCH") of the request and of the right of each company to submit comments to this office as to why the requested information should not be released to the requestor. *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 the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

You raise section 552.110 of the Government Code. We note, however, section 552.110 is designed to protect the interests of third parties, such as LSE and PCH, not the interests of a governmental body. Thus, we do not address your arguments under section 552.110 of the Government Code, and the submitted proposal may be withheld under section 552.110 based only on arguments from LSE or PCH. 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 that party 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 LSE or PCH explaining why their information should not be released to the requestor. Thus, we have no basis to conclude that the release of any of the information at issue would implicate LSE's or PCH's interests. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise claiming exception for commercial or financial information under section 552.110(b) must show by specific factual evidence release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret). Accordingly, the city may not withhold any of the submitted information on the basis of the proprietary interests of LSE or PCH. Therefore, the city must release the submitted information.

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,



Charles Galindo Jr.
Assistant Attorney General
Open Records Division

CG/em

Ref: ID# 450564

Enc. Submitted documents

c: Requestor
(w/o enclosures)