



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 5, 2012

Ms. Alicia Richardson
City Secretary
City of Southlake
1400 Main Street, Suite 270
Southlake, Texas 76092

OR2012-14013

Dear Ms. Richardson:

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# 464420.

The City of Southlake (the "city") received a request for building plans pertaining to three specified properties. You state the city has released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified Adams Consulting Engineers, Inc. ("Adams"); Architecture, Inc. ("Architecture"); CNK Associates, Inc. ("CNK"); and The Integra Service Grapevine, Inc. ("Integra") of the request for information 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) (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) 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, we have not received comments from Adams, Architecture, CNK, or Integra explaining why their information should not be

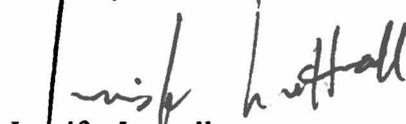
released. Therefore, we have no basis to conclude any of these third parties have a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific 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 of the submitted information on the basis of any proprietary interest Adams, Architecture, CNK or Integra may have in it.

You state, and we agree, some of the materials at issue 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,


Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 464420

Enc. Submitted documents

c: Requestor
(w/o enclosures)

CNK Associates, Inc.
2045 North Highway 360, Suite 160
Grand Prairie, Texas 75050
(w/o enclosures)

The Integra Service Grapevine, Inc.
Royal Central Tower
11300 North Central Expressway, Suite 400
Dallas, Texas 75249
(w/o enclosures)

Adams Consulting Engineers, Inc.
920 South Main Street, Suite 190
Grapevine, Texas 76051
(w/o enclosures)

Architecture, Inc.
2501 Oak Lawn Avenue, Suite 460
Dallas, Texas 75219
(w/o enclosures)