



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 17, 2013

Mr. B. Scott Osburn
Deputy City Attorney
Public Works
Office of the City Attorney
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR2013-12226

Dear Mr. Osburn:

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# 493419.

The City of Killeen (the "city") received a request for the plat dedication and drainage plans for a specified address. 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 Reeces Creek Developers, Ltd. ("Creek") and Mitchell & Associates, Inc. ("Mitchell") of the request for information and of their rights 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.

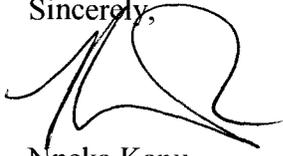
We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Creek or Mitchell explaining why their information should not be released. Therefore, we have no basis to conclude either company has 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 Creek or Mitchell may have in it. As no exceptions to disclosure have been raised, the city must release the submitted information to the requestor.

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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

Ref: ID# 493419

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. William Hickman
Reeces Creek Developers
4300 Chantz Drive
Killeen, Texas 76542
(w/o enclosures)

Mitchell & Associates, Inc.
102 North College Street
Killeen, Texas 76541
(w/o enclosures)