



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 24, 2013

Mr. Brandon S. Shelby  
City Attorney  
City of Sherman  
P.O. Box 1106  
Sherman, Texas 75091-1106

OR2013-16546

Dear Mr. Shelby:

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# 500329.

The City of Sherman (the "city") received a request for the dates of SWPP filings or updates to SWPP filings for two specified properties and the engineering plans for the specified properties. You state you have released some information to the requestor. Although you indicate 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 you notified Sartin & Associates, Inc.; SBD Partners d/b/a/ Carrus Specialty Hospital; Spavinov Development, L.L.C.; Sterling Engineering & Design Group Ltd.; Teague Nall & Perkins; Underwood Drafting & Surveying; and Vilbig & Associates, Inc. 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.

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 any

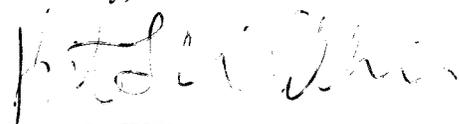
third party explaining why its information should not be released. Therefore, we have no basis to conclude any third party has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial 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 any third party may have in it.

You state some of the submitted information is subject to 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 city must release the submitted information; however, the city may only release any copyrighted information 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/bhf

Ref: ID# 500329

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Spavivnov Development  
622 East Lamar  
Sherman, Texas 75090  
(w/o enclosures)

Sterling Engineering & Design Group  
7171 Highway 6 North, Suite 201  
Houston, Texas 77095  
(w/o enclosures)

Vilbig & Associates  
10132 Monroe Drive  
Dallas, Texas 75229  
(w/o enclosures)

Sartin & Associates  
109 South Travis Street  
Sherman, Texas 75090  
(w/o enclosures)

Underwood Drafting & Surveying  
3404 Interurban Road  
Denison, Texas 75021  
(w/o enclosures)

Teague Nall & Perkins  
Suite 500  
200 North Travis  
Sherman, Texas 75090  
(w/o enclosures)