



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 19, 2015

Ms. Talibah Young
Senior Assistant General Counsel
University of Houston System
311 E. Cullen Building
Houston, Texas 77204-2028

OR2015-05291

Dear Ms. Young:

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# 556917.

The University of Houston (the "university") received a request for a copy of the executed contract for the operation of the university bookstore. Although the university takes no position as to whether the submitted information is excepted under the Act, it states release of the submitted information may implicate the proprietary interests of Barnes & Noble College Booksellers, Inc. ("Barnes & Noble"). Accordingly, the university states, and provides documentation showing, it notified Barnes & Noble of the request for information and of its right to submit arguments to this office as to why the information at issue 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 Barnes & Noble explaining why the submitted information should not be released. Therefore, we have no basis to conclude Barnes & Noble 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, 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), 542 at 3. Accordingly, the university may not withhold the submitted information on the basis of any proprietary interest Barnes & Noble may have in the information. As no exceptions to disclosure have been raised, the submitted information must be released.

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, 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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSB/dls

Ref: ID# 556917

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Kimberly Otte
Vice President of Stores
Barnes & Noble College Booksellers, Inc.
120 Mountain View Boulevard
Basking Ridge, New Jersey 07920
(w/o enclosures)

Barnes & Noble College Booksellers, Inc.
2605 Sagebrush #102
Flowermound, Texas 75028
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