



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 28, 2015

Ms. Veronica Lomas
Records Manager
City of Southlake
1400 Main Street, Suite 270
Southlake, Texas 76092

OR2015-20237

Dear Ms. Lomas:

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# 580803.

The City of Southlake (the "city") received a request for all documents pertaining to the residence at a specified address. Although the city 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 Arthur Surveying Company; DeFord's; Watson Design, Inc.; and Whitworth Engineering. Accordingly, the city states, and provides documentation showing, it notified these third parties of the request for information and of the right of each 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

of the third parties explaining why the submitted 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, 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 city may not withhold the submitted information on the basis of any proprietary interest the third parties may have in the information.

The city states 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. Thus, the city must release the submitted information; however, the city may only release information subject to copyright 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, 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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 580803

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Arthur Surveying Company
220 Elm Street, Suite 200
Lewisville, Texas 75057
(w/o enclosures)

DeFord's
1018 North Duncanville Road
Duncanville, Texas 75116
(w/o enclosures)

Watson Design, Inc.
3537 West 7th Street, Suite 5
Fort Worth, Texas 76107
(w/o enclosures)

Whitworth Engineering
4200 North Main, Suite 150
Fort Worth, Texas 76106
(w/o enclosures)