



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 8, 2016

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

OR2016-00615

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# 593602.

The City of Southlake (the "city") received a request for building permits and other similar records pertaining to a specified property. You state you will allow the requestor to inspect some information in accordance with copyright law. Although you take no position with respect to the public availability of the submitted information, you state the proprietary interests of CA&P, Claffey Pools, Deal's Decks, and James H. Dowdy Land Surveyors, Inc. might be implicated. Accordingly, you state, and provide documentation showing, you notified these parties of the request and of their rights to submit arguments to this office explaining why the submitted information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception 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 CA&P, Claffey Pools, Deal's Decks, or James H. Dowdy Land Surveyors, Inc. explaining

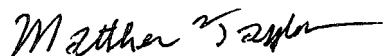
why the submitted information should not be released. Therefore, we have no basis to conclude any of these party has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, 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 CA&P, Claffey Pools, Deal's Decks, or James H. Dowdy Land Surveyors, Inc. may have in the information.

Some of the information 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 further exceptions to disclosure have been raised, the submitted information must be released; however, any information subject to 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.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,

A handwritten signature in black ink, appearing to read "Matthew Taylor", with a horizontal line extending to the right.

Matthew Taylor
Assistant Attorney General
Open Records Division

MT/bw

Ref: ID# 593602

Enc. Submitted documents

c: Requestor
(w/o enclosures)

CA&P
1026 Creekwood Dr
Garland, Tx 75044
(w/o enclosures)

Claffey Pools
1625 Brumlow Ave
Southlake, Tx 76092
(w/o enclosures)

Deal's Decks
3221 Prince Ct
Bedford, Tx 76021
(w/o enclosures)

James H Dowdy Land Surveyors Inc
6850 Manhattan Blvd Ste 310
Fort Worth, Tx 76120
(w/o enclosures)