



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 11, 2017

Mr. Ryan D. Pittman  
Counsel for City of Frisco  
Abernathy, Roeder, Boyd, Hullett  
1700 Redbud Boulevard, Suite 300  
McKinney, Texas 75070-1210

OR2017-28110

Dear Mr. Pittman:

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# 687272.

The City of Frisco (the "city"), which you represent, received a request for specified building plans. 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 Greg Lorie, Architect ("Lorie").<sup>1</sup> Accordingly, you state, and provide documentation showing, you notified Lorie of the request for information and of his 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 received comments from an attorney representing Lorie. We have considered the submitted arguments and reviewed the submitted information.

Lorie claims the information is excepted from disclosure under section 552.104 of the Government Code. Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code

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<sup>1</sup>We note the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(e). Nonetheless, because third party interests are at stake, we will consider whether the submitted information must be withheld under the Act based on third party interests. *See id.* §§ 552.001, .302, .352.

§ 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The “test under section 552.104 is whether knowing another bidder’s [or competitor’s information] would be an advantage, not whether it would be a decisive advantage.” *Id.* at 841. Lorie states he has competitors. In addition, Lorie states the information at issue, if released, would give competitors an advantage. After review of the information at issue and consideration of the arguments, we find Lorie has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the submitted information under section 552.104(a) of the Government Code.<sup>2</sup>

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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/gw

Ref: ID# 687272

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: Third Party  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.