



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 15, 2018

Mr. Ryan D. Pittman  
Counsel for the City of Frisco  
Abernathy Roeder Boyd Hullett  
P.O. Box 1210  
Frisco, Texas 75069-1210

OR2018-03595

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# 695946 (Ref. No. G023111-111717).

The City of Frisco (the "city"), which you represent, received a request for the building plans for a specified address. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Eric. L. Davis Engineering, Inc., and First Texas Homes, Inc. ("First Texas"). Accordingly, you state, and provide documentation showing, you notified the interested third parties of the request and their right to submit arguments to this office. *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 First Texas. We have considered the submitted arguments and reviewed the submitted information.

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 § 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. First Texas states it has competitors. In addition, First Texas states

release of the information at issue would give competitors an advantage by giving them information that would allow them to duplicate First Texas's plans and undercut them in new home building efforts. After review of the information at issue and consideration of the arguments, we find First Texas 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>1</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,



Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/tdw

Ref: ID# 695946

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.