



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 25, 2019

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

OR2019-08109

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# 756013 (ORR# 2644844).

The City of Frisco (the "city"), which you represent, received a request for the architectural plans for the requestor's home. The city does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, the city states, and provides documentation showing, it notified Childress Engineering Services and K. Hovanyon Homes-DFW, L.L.C. ("Hovanyon") of the city's receipt of the request for information and of their right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 Hovanyon objecting to the release of the information at issue. We have considered the submitted arguments and reviewed the submitted information.

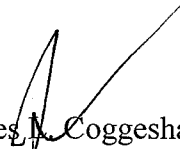
Section 552.110(b) of the Government Code excepts from disclosure "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]" Gov't Code § 552.110(b). Section 552.110(b) requires a specific factual or evidentiary showing, not conclusory or generalized allegations, substantial

competitive injury would likely result from release of the requested information. *See* Open Records Decision No. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence release of information would cause it substantial competitive harm). Upon review, we find Hovanion has established the release of the information at issue would cause it substantial competitive injury. Therefore, the city must withhold the submitted information under section 552.110(b) of the Government Code.¹

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,



James M. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 756013

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address the other argument of the city to withhold this information.