



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 23, 2022

Ms. Linda Pemberton
Paralegal
City of Killeen
P.O. Box 1329
Killeen, Texas 76540

OR2022-05508

Dear Ms. Pemberton:

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# 934297 (W037749).

The City of Killeen (the "city") received a request for open zoning code violations, conditional use permits, variances, approved site plans, development review documents, and development review meeting minutes/approval for a specified address. You inform us the city has not information responsive to portions of the request. 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 Mitchell & Associates ("Mitchell"). Accordingly, you state, and provide documentation showing, you notified Mitchell of the request and its 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 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 to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from Mitchell. Thus, we have no basis to conclude Mitchell has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the city may not withhold any of the submitted

information on the basis of any proprietary interest Mitchell may have in the information. The city must release the submitted information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Sean Nottingham
Assistant Attorney General
Open Records Division

SN/mo

Ref: ID# 934297

Enc. Submitted documents

c: Requestor
(w/o enclosures)