



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 1, 2022

Ms. Aliceson Cotton
Counsel for the City of Frisco
Abernathy, Roeder, Boyd & Hullett, P.C.
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75070-1210

OR2022-19073

Dear Ms. Cotton:

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# 956577 (GovQA No. G056893).

The City of Frisco (the "city"), which you represent, received a request for certain information pertaining to a specified address.¹ You state you have released some information to the requestor. Although you take no position as to whether the submitted information is excepted from disclosure under the Act, you state release of the submitted information may implicate the proprietary interests of DFH Coventry, L.L.C. d/b/a Coventry Homes ("Coventry"). Accordingly, you state, and provide documentation showing, you notified Coventry of the request for information and of the right to submit arguments to this office as to why the submitted information 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 Coventry. We have considered the submitted arguments and reviewed the submitted information.

¹ You state the city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.2d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

Section 552.110(b) of the Government Code states, “information is [excepted from required disclosure] if it is demonstrated based on specific factual evidence that the information is a trade secret.” Gov’t Code § 552.110(b). Section 552.110(a) defines a trade secret as all forms and types of information if:

(1) the owner of the trade secret has taken reasonable measures under the circumstances to keep the information secret; and

(2) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

Id. § 552.110(a). Coventry argues the submitted information consists of trade secrets subject to section 552.110(b). Upon review, we find Coventry has demonstrated the information at issue constitutes trade secrets. *See Taco Cabana Int’l v. Two Pesos, Inc.*, 932 F.2d 1113, 1123 (5th Cir. 1991), *aff’d*, 505 U.S. 763 (1992); *see also Ecolaire Inc. v. Crissman*, 542 F. Supp. 196, 206 (E.D. Pa. 1982) (drawings, blueprints, and lists constitute trade secrets because such information could be obtained, through other than improper means, only with difficulty and delay); *American Precision Vibrator Co. v. Nat’l Air Vibrator Co.*, 764 S.W.2d 274, 278 (Tex. App.—Houston [1st Dist.] 1988, no writ) (blueprints, drawings, and customer lists constitute trade secrets). Accordingly, the city must withhold the submitted information under section 552.110(b) of the Government Code.

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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/jm

Ref: ID# 956577

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)