

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

MIAMI-DADE COUNTY, a political
Subdivision of the State of Florida,

CASE NO.: 13-02937 CA 08

Plaintiff-In-Interpleader,

vs.

DOPPELMAYR CABLE CAR
GMBH AND CO KG, and
MITSUBISHI HEAVY INDUSTRIES
OF AMERICA,

Claimants-In-Interpleader.

FINAL ORDER

This cause comes before the Court on Plaintiff-In-Interpleader, MIAMI-DADE COUNTY's ("County") Complaint in Interpleader against Claimants-In-Interpleader, MITSUBISHI HEAVY INDUSTRIES OF AMERICA ("Mitsubishi") and DOPPELMAYR CABLE CAR GMBH AND CO KG ("Doppelmayr"), and on Claimant-In-Interpleader Mitsubishi's Motion for Expedited Hearing and Expedited *In Camera* Review, pursuant to § 119.11, Fla. Stat. The Court, having reviewed the pleadings and documents filed of record in this case, and after hearing argument from counsel and conducting an *in camera* review of the two documents at issue, issues the following:

Findings of Fact

In 2010 the County, through the Miami-Dade Airport Department ("MDAD") solicited bids for an upgrade to the Automated People Mover ("APM") system at the airport. Mitsubishi was the lowest bidder, but Mitsubishi's bid was still well in excess of the County's budget for the

project. Doppelmayr did not submit a bid in response to the solicitation. Mitsubishi subsequently performed a value engineered study of the project and adjusted their bid.

On April 16, 2012, after the bids were opened, Doppelmayr submitted a proposal for an alternative APM system. Doppelmayr's proposal indicated that it was proprietary and confidential in nature.

On June 19, 2012, Doppelmayr submitted a Supplemental Package of materials to the County. This supplemental package of materials also indicated that it was proprietary and confidential in nature.

The County rejected all the bids received in response to the solicitation and also rejected Doppelmayr's unsolicited proposal, electing instead to reconfigure its solicitation for the Satellite Terminal E APM project. This new solicitation was advertised on January 14, 2013, and sealed bids are due from all parties by March 27, 2013. Both Mitsubishi and Doppelmayr intend to bid on the project.

Mitsubishi submitted several public records requests seeking to obtain a variety of records, including the Doppelmayr Proposal, under Florida's Public Records Act, back in June 2012. The County has furnished a large volume of material to Mitsubishi, but advised Mitsubishi in January 2013, that the Doppelmayr proposal contained trade secrets and would not be furnished.

Based on the Court's in camera review, both the April 16, 2012 Proposal and the June 19, 2012 Supplemental Package (cumulatively the "Doppelmayr Proposal") on their face consist of and contain a compilation of information used by Doppelmayr in the operation of its business in designing and configuring APM systems and applying their designs to specific projects as well as data regarding performance of systems and methodology for pricing.

The Doppelmayr Proposal represents a single, integrated document. The June 19, 2012, Supplemental Package and a substantial portion of the April 16, 2012, Proposal are stamped confidential, and the April 16, 2012 Proposal contains general terms stating that the material, including drawings, design drafts, cost estimates and technical documents, as well as samples and catalogues, remain the intellectual property of Doppelmayr and any copying, reproduction or dissemination of this information may only be made with Doppelmayr's express approval.

The Doppelmayr Proposal represents a single integrated document which can only be read together as a whole.

Both the Doppelmayr Proposal and the Supplemental Materials consist of proprietary trade secrets as defined by §812.081(1)(c), Fla. Stat.

CONCLUSIONS OF LAW

The County's Complaint in Interpleader seeks a determination by the Court as to whether the aforementioned Doppelmayr Proposal constitute trade secrets or not, and whether the documents should be withheld or produced to Mitsubishi pursuant to § 119.07, Fla. Stat. Mitsubishi has, by motion, asked this Court to conduct this hearing on an expedited basis and conduct an *in camera* review of the documents in question to determine whether they are reviewable public records or exempt trade secrets.

Generally, when an exemption to disclosure is asserted under the Public Records Act, *in camera* inspection of the subject records must be performed by the trial court to determine applicability of the asserted exemption. *Env'tl. Turf v. Univ. of Fla. Bd. of Trustees*, 83 So. 3d 1012 (Fla. 1st DCA 2012).

On March 6, 2013, this Court conducted an *in camera* review of both the April 16, 2012 Proposal and the June 19, 2012, Supplemental Materials, and based on this review and the

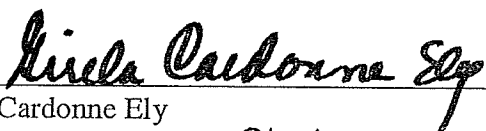
arguments, documents and filings presented by counsel, concludes that these materials meet the definition of a "trade secret" as defined by § 812.081(1)(c), Fla. Stat.

This Court further concludes based on its review, that the documents were adequately and sufficiently identified as confidential at the time of their submittal to the County.

The April 16, 2012 Proposal and the June 19, 2012 Supplemental Package are exempt from disclosure under Florida's Public Records Act. As such, Miami-Dade County is not required to produce the Doppelmayr Proposal to Mitsubishi.

Accordingly, it is **ADJUDGED** that Mitsubishi's Motion for Expedited Hearing and In Camera Review is granted, in part, and the relief sought by Miami-Dade County in its Complaint in Interpleader is hereby **GRANTED**, in that the County is ordered to maintain custody of the Doppelmayr Proposal and hold the same as confidential trade secret exempt from disclosure under the Public Records Act.

DONE and **ORDERED** in Chambers in Miami, Florida on this ~~26~~^{April} day of March, 2013.


Gisela Cardonne Ely
Circuit Judge

Gisela Cardonne Ely

APR 26 2013

Circuit Court Judge

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