



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

June 13, 1989

Mr. Robert E. Shaddock  
General Counsel  
State Department of Highways  
and Public Transportation  
DeWitt C. Greer State Highway Bldg.  
11th & Brazos  
Austin, Texas 78701-2483

Dear Mr. Shaddock:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 6442; this decision is OR89-181.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The State Department of Highways and Public Transportation received a request for appraisal reports pertaining to a spoil disposal site acquisition project. You claim that section 3(a)(5) of the Open Records Act protects the reports from required public disclosure.

Section 3(a)(5) excepts

information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property

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for public purposes prior to the formal award  
of contracts therefor.

V.T.C.S. art. 6252-17a, § 3(a)(5).

Previous decisions of this office indicate that the information you seek to withhold falls within section 3(a)(5). See Open Records Decision Nos. 234 (1980); 222 (1979). Consequently, you may withhold the information from public disclosure under the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-181.

Yours very truly,

*Open Government Section*  
*of the Opinion Committee*

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of the Opinion Committee  
Prepared by Jennifer S. Riggs  
Chief, Open Government Section

JSR/bc

Ref.: ID# 6442