



**THE ATTORNEY GENERAL
OF TEXAS**

September 18, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Mr. Jesus Toscano, Jr.
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

Dear Mr. Toscano:

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# 6746; this decision is OR89-296.

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 City of Dallas received an open records request for information concerning the possible relocation of the Texas Rangers baseball club to Dallas, Texas. You have released some of the requested information. you contend, however, that section 3(a)(5) of the Open Records Act protects from required public disclosure a consultant's report that contains information pertaining to the construction of a baseball stadium, which includes an analysis of the land value of the proposed site of the stadium.

Section 3(a)(5) of the act protects information pertaining to the location of real property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real property for public purposes prior to the formal award of a contract. Although the report in question contains these types of information, it also contains other information that falls outside the protection of section 3(a)(5). We have marked with brackets or with the word "withhold" those portions of

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the report that you may withhold pursuant to section 3(a)(5); because you have raised no other exceptions to disclosure with regard to the remaining information, the rest of the report must be released.

We also assume from your claim of section 3(a)(5) that no interested party has obtained any of the information in the report. If any private party, other than the consultant who prepared the report, has reviewed the information, it must be released to the requestor. See V.T.C.S. art. 6252-17a, § 14(a).

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 OR89-296.

Yours very truly,

*Open Government Section
of the Opinion Committee*

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of the Opinion Committee
Approved by David A. Newton
Assistant Attorney General

DAN/RWP/bc

Enclosures: Marked documents

cc: Mr. David Nather
Staff Writer
The Dallas Morning News
Communications Center
Dallas, Texas 75265

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