



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTHEW
ATTORNEY GENERAL

February 26, 1990

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

OR90-084

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 requests were assigned ID#'s 8716, 8746, and 8781.

You have received requests from members of the public for real estate appraisal reports on three specific parcels of land. In each case you inform us that the requested appraisal information relates to the acquisition of property in a project that is still subject to negotiations and possible eminent domain proceedings. You contend that section 3(a)(5) of the Open Records Act protects the appraisal reports from required public disclosure.

Your request is governed by Open Records Decision Nos. 357 (1982) and 234 (1980). You may withhold the appraisal reports pursuant to section 3(a)(5) of the Open Records Act.

We have dealt with virtually identical requests for appraisal reports in our informal rulings OR89-273, OR90-36, and OR90-58 addressed to you. The legal issues in these rulings are identical, while any differences in the records of particular appraisals have had no bearing on the status of such appraisal reports under the Texas Open Records Act.

Section 7 of the Open Records Act requires the Attorney General to render a decision only if there has been no previous determination that the requested information falls within one of the exceptions to the Open Records Act. The Texas Supreme Court has made the following statements about the "previous determination" under the Open Records Act:

The Act does not require a previous determination on the specific piece of

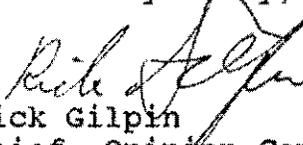
information; it allows the Attorney General to explicitly refuse to render a decision if he decides that a previous determination has been made regarding the category of information to which the request belongs. The Attorney General's refusal to render a decision is subject to review by the courts on an abuse of discretion standard.

Houston Chronicle Publishing Co. v. Mattox, 767 S.W.2d 695 (Tex. 1989).

If in the future you receive open records requests for appraisal information relating to the acquisition of property in a project that is still subject to negotiations, and possible eminent domain proceedings, you may regard this letter as a "previous determination" under section 7 of the Open Records Act. You need not request a decision from this office in order to withhold similar information in the future.

If you have questions about this ruling, please refer to OR90-084.

Yours very truly,


Rick Gilpin
Chief, Opinion Committee

RG/SG/le

Ref.: ID# 8716, 8746, 8781

Enclosure: Open Records Decision Nos. 234; 357

cc: Grady Click
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