



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 24, 1996

Mr. Tracy A. Ponders
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR96-0599

Dear Mr. Ponders:

On behalf of the City of Dallas (the "city"), you have asked this office to reconsider Open Records Letter No. 96-0191 (1996). Your request for reconsideration was assigned ID# 39229.

The city received a request for information related to a proposed sports arena in Dallas. You submitted to this office for review Exhibits B, C, and D, a "representative sample" of information responsive to the request. You claimed that information in Exhibit B is excepted from disclosure by section 552.101, information in Exhibit C by section 552.105, and information in Exhibit D by section 552.107 of the Government Code. In Open Records Letter No. 96-0191 (1996) we explained that information in Exhibit B is not excepted from disclosure by section 552.101, that the marked portions of Exhibit C are excepted by section 552.105, and that Exhibit D is excepted in its entirety by section 552.107.

You have resubmitted Exhibits B and C to this office for review. In your request for reconsideration you express the following concern:

The Opinion states that Exhibit B may not be withheld under section 552.101 of the Act, but does identify Arena site locations as information that may be withheld from disclosure. The City does not contest this conclusion, and is in the process of disclosing Exhibit B to the extent that it does not identify the Arena site locations. The City merely contests that it must release of [sic] Exhibit B without the opportunity to edit out that information the Opinion otherwise authorizes the City to withhold.

Specifically, you believe that Open Records Letter No. 96-0191 (1996) does not authorize the city to withhold from disclosure the arena site locations noted in Exhibit B, even though we ruled that apparently similar information in Exhibit C is excepted from disclosure by section 552.105.

Section 552.301(b)(4) imposes a duty on the governmental body to clearly indicate which exceptions apply to which parts of the information that the governmental body wishes to withhold from public disclosure. In your original request for a decision on this matter, you specifically claimed a separate exception for each Exhibit. Presumably, then, each Exhibit included a representative sample of the type of information that you sought to withhold under that specific exception. Your request indicated that Exhibit B contained the type of information you wanted to withhold under section 552.101. You did not indicate that you wished to withhold any portion of Exhibit B under section 552.105. Accordingly, we did not make a determination as to whether section 552.105 applies to any of the information included in that Exhibit. We merely ruled that information in Exhibit B is not excepted from public disclosure under section 552.101, the only exception you asked us to consider for Exhibit B.¹

Nevertheless, when ruling on the disclosure of a representative sample of information such as Exhibit B or C, we do so with the caveat that an attorney general decision entitling a governmental body to withhold such information does not apply to any information that is of a substantially different type than the information contained in the representative sample. See Open Records Decision Nos. 499 (1988), 497 (1988). In other words, the conclusion we reached in Open Records Letter No. 96-0191 (1996) with regard to Exhibit C is equally applicable to other information of substantially the same type as that contained in Exhibit C. We concluded that portions of Exhibit C are excepted from disclosure under section 552.105. Therefore, if Exhibit B contains the same type of information that we concluded may be withheld from public disclosure under section 552.105, then portions of Exhibit B may also be excepted from disclosure under section 552.105. If you have any questions about this ruling, please contact this office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

¹Although we will raise section 552.101 on behalf of a governmental body, we ordinarily will not raise other exceptions that a governmental body does not specifically assert in its request for a decision. See Open Records Decision Nos. 481 (1987), 480 (1987), 344 (1982).

KEH/rho

Ref.: ID# 39229

Enclosures: Marked documents

cc: Mr. Todd J. Gillman
Staff Writer
The Dallas Morning News
P.O. Box 655237
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(w/o enclosures)