



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 11, 1996

Mr. Edward H. Perry  
Assistant City Attorney  
City of Dallas  
City Hall  
Dallas, Texas 75201

OR96-1856

Dear Mr. Perry:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101102.

The City of Dallas (the "city") received a request for "access to all records concerning the six sites being considered for the location of the pending Latino Cultural Center." You have marked a portion of a memorandum which you consider to be public and which you agree to release to the requestor. You also state that "most of the requested information will be made available to the requestor." However, you assert that the city may withhold all of the submitted information, from required public disclosure, pursuant to section 552.105 of the Government Code. Additionally, you contend that portions of the requested information pertaining to the possible location of the Latino Cultural Center (the "center") are excepted from required public disclosure based on section 552.111 of the Government Code. You have submitted to this office the information the city seeks to withhold from the requestor. We have considered the exceptions you claim and have reviewed the documents at issue.

We first address your assertion that section 552.105 of the Government Code excepts all of the submitted information from required public disclosure. Section 552.105 excepts from disclosure information relating to:

(1) the location of real or personal property for a public purpose prior to public announcement of the project; or

(2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contract for the property.

This exception is designed to protect a governmental body's planning and negotiating position in transactions involving the purchase of real or personal property for a public purpose.<sup>1</sup> Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982). The submitted information reveals the location of proposed sites for the center. You contend that the premature release of the requested information will have a detrimental effect on the city's efforts to obtain a site for the center on the best terms. We believe that most of the information you submitted may be withheld pursuant to section 552.105 as it consists of "information related to the location of real . . . property for a public purpose." However, you have informed our office that some of this information which relates to the general location of the proposed sites has been publicly announced. You also indicate that some portions of a document are "open for public review." Therefore, except for information you indicate has been disclosed or is public, we conclude that the city may withhold much of the submitted information based on section 552.105. Once the city selects and purchases a site, section 552.105 will no longer be applicable. See Open Records Decision No. 222 (1979).

We note, however, that there are some documents at issue that may not be withheld from disclosure under section 552.105 of the Government Code. Thus, we next address your assertion that section 552.111 excepts this submitted information. These particular documents have been marked by your office with the type of information that you assert may be withheld pursuant to 552.111 of the Government Code. Section 552.111 of the Government Code excepts from required public disclosure:

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

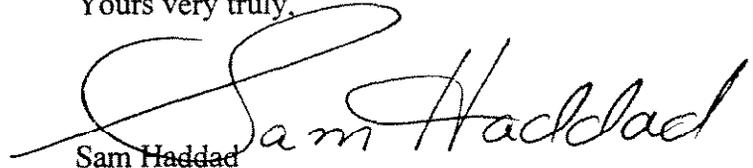
In Open Records Decision No. 615 (1993), this office concluded that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. Section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of memoranda. *Id.* at 4-5. We believe that these documents constitute internal communications consisting of advice, recommendations, and opinions of the city. Accordingly, we have tagged those documents that are not subject to section 552.105, but that contain information which may be withheld from required public disclosure under section 552.111.

---

<sup>1</sup>However, section 552.105 protects information relating to the location, appraisals, and purchase price of property as long as the transaction is not complete. Open Records Decision Nos. 357 (1982), 310 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/ch

Ref.: ID# 101102

Enclosures: Submitted documents

cc: Ms. Denise McVea  
Dallas Observer  
P. O. Box 190289  
Dallas, Texas 75219  
(w/o enclosures)