



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 24, 1997

Ms. Tracy A. Pounders
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR97-0145

Dear Ms. Pounders:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 102873.

The City of Dallas (the "city") received a request for "[a]ll records, including but not limited to memos, letters, briefing materials and other documents, including those stored electronically, regarding a proposed new sports arena" as well as "[c]orrespondence with the Dallas Mavericks, Dallas Stars or their representatives, officers or owners." You assert that portions of the requested information are excepted from required public disclosure based on Government Code sections 552.105(1), 552.107(1) and 552.111. In addition, Dallas Basketball Limited ("DBL") asserts that portions of the information the city seeks to withhold from disclosure are not responsive to the request.

Section 552.105(1) of the Government Code applies to information relating to "the location of real or personal property for a public purpose prior to public announcement of the project." This exception protects a governmental body's planning and negotiating position with respect to particular real or personal property transactions. *See* Open Records Decision No. 357 (1982). The protection generally expires upon the governmental body's acquisition of the property in question. *See* Open Records Decision No. 222 (1979).

You have submitted a representative sample of the information for which the city claims section 552.105(1). It concerns the selection of a proposed new sports arena.

We agree that section 552.105(1) applies to this information until such time as the city completes the purchase of the new arena site.¹

You raise sections 552.107(1) and 552.111 of the Government Code in regard to two memoranda, one from the City Attorney to the mayor and another from the City Attorney to a city council member. Section 552.107(1) states that information is excepted from required public disclosure if

it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct.

This exception applies only to information that reveals attorney advice and opinion or client confidences. *See* Open Records Decision No. 574 (1990). We agree that section 552.107(1) applies to the two submitted memoranda. As for the August 2, 1996, memorandum, we note that this same document is at issue in another open records request, which we have assigned ID# 104143. In subsequent correspondence to this office, the city asserts that section 552.107(1) applies to portions of this document, rather than to the document in its entirety. Consequently, we assume the city no longer wishes to claim that this document is excepted from required public disclosure in its entirety. Having reached a conclusion about the public disclosure of the two memoranda based on section 552.107(1), we need not consider your section 552.111 claim.

Finally, we consider Exhibit E, which you describe as "factual data confidentially provided to [the city] by Dallas Basketball Limited ("DBL") or its owners for the sole purpose of assisting the [c]ity's determination of whether or not one or more council members have a conflict of interest with regard to Arena related matters." You raise no exception to the public disclosure of Exhibit E, but suggest that DBL's privacy and property rights may be implicated by such a release. This office notified DBL of this request in order to provide DBL an opportunity to assert any privacy or property rights in may have in the information. *See* Gov't Code § 552.305. DBL asserts no exception to the public disclosure of the information, nor raises any privacy or property interest in the public release of the information. Rather, DBL asserts that, except for the portion of the DBL information that it

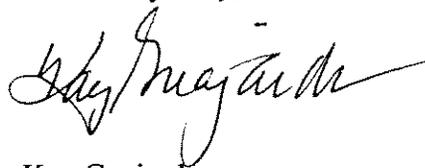
¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

considers actually related to a new sports arena and referred to in the city's memoranda, the DBL information is outside the scope of the request, and therefore, not subject to required public disclosure.

We have reviewed the information in Exhibit E and considered DBL's arguments. We conclude that Exhibit E is within the scope of the request. As neither the city or DBL raises an exception to public disclosure of Exhibit E, we conclude that the city may not withhold it from public disclosure.

We are resolving this matter with this 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 may 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,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 102873

Enclosures: Submitted documents

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