



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 7, 1998

Mr. John F. Boyle, Jr
Boyle & Lowry, L.L.P.
4201 Wingren, Suite 108
Irving, Texas 75062-2763

OR98-0063

Dear Mr. Boyle:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111569.

The City of Farmers Branch (the "city") received two requests for information relating to the city's acquisition of certain property. You state that some documents have been released. However, you claim that the remaining requested information is excepted from disclosure under sections 552.105, 552.107, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of documents.¹

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 contracts for the property.

Section 552.105 is designed to protect a governmental body's planning and negotiating position with regard to particular transactions, and its protection is therefore limited in duration. Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982). Information

¹We 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). 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.

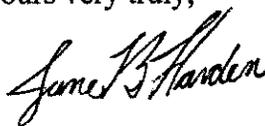
excepted under section 552.105 that pertains to such negotiations may be excepted so long as the transaction is not complete. Open Records Decision No. 310 (1982). The protection of section 552.105 generally expires upon the governmental body's acquisition of the property in question. Open Records Decision No. 222 (1979). Because this exception extends to "information pertaining to" the location, appraisals, and purchase price of property, it may protect more than a specific appraisal report prepared for a specific piece of property. Open Records Decision No. 564 (1990) at 2. A governmental body may withhold information "which, if released, would impair or tend to impair [its] 'planning and negotiating position in regard to particular transactions.'" Open Records Decision No. 357 (1982) at 3 (quoting Open Records Decision No. 222 (1979)).

You explain that the city is currently in the preliminary stages of a possible real property transaction. Furthermore, you state that release of the requested information would harm the city's negotiation position for the acquisition of the property. Based on your arguments, we conclude that you may withhold the information, which we have marked, under section 552.105.

You also assert that one document may be withheld from disclosure pursuant to section 552.111. Section 552.111 excepts from required public disclosure a preliminary draft of a letter or document related to policymaking matters, since drafts represent the advice, opinion, and recommendation of the drafter as to the form and content of the final document. Open Records Decision No. 559 (1990). We have reviewed the draft document at issue and conclude that it relates to the policymaking processes of the governmental body. Therefore, the document may be withheld from disclosure under section 552.111.

Because we are able to make a determination under sections 552.105 and 552.111, we need not address your claim under section 552.107. 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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/alg

Ref: ID# 111569

Enclosures: Marked documents

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