



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 2, 1998

Mr. John Steiner  
City of Austin  
Norwood Tower  
114 West 7<sup>th</sup> Street  
Austin, Texas 78767-1546

OR98-2357

Dear Mr. Steiner:

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# 118500.

The City of Austin (the "city") received a request for copies or access to "all contracts for sale, option to buy, conservation, easement or other agreements between the City of Austin or the Nature Conservancy and landowners, growing from Proposition 2 on the May bond election." You claim that the requested information is excepted from disclosure under section 552.105 of the Government Code. We have considered the exception you claim and reviewed the submitted information.<sup>1</sup>

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. Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982). Information excepted under section 552.105 that pertains to such negotiations may be excepted so long as the transaction is not complete. Open Records

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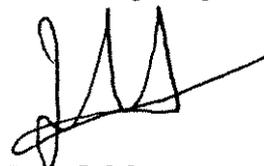
<sup>1</sup>We assume that the "representative samples" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Decision No. 310 (1982). 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 at 2 (1990). For example, this office has concluded that appraisal information about parcels of land acquired in advance of others to be acquired for the same project could be withheld where this information would harm the governmental body’s negotiating position with respect to the remaining parcels. *Id.* 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 at 3 (1982). (quoting Open Records Decision No. 222 (1979)).

You advise us that the requested information relates to a program of land acquisition approved by Austin’s voters in a bond election last May. You assert that the city is engaged in ongoing negotiations for the purchase of approximately 15,000 acres. Although seventeen purchase agreements have been entered into with landowners, you state that the basic form of each purchase agreement, assignment and assumption agreement and service agreement is substantially similar in the completed as well as the related proposed acquisitions. Additionally, you assert that the “negotiations are currently ongoing for the purchase of a number of additional fee tracts and conservation easements, all of which are either contiguous or very near tracts already under contract.” You state that the “disclosure of the identity of the tracts already under contract or the terms of the related purchase agreements would severely compromise the city’s ability to negotiate the purchase of these additional tracts on favorable terms and could jeopardize their ability to buy them at all.” We have examined the documents submitted to us for review and conclude that the city has made a good faith determination that release of the contracts would damage its negotiating position with respect to the remaining purchase of property related to Proposition 2 Barton Springs contributing zone. Accordingly, the contracts may be withheld from required public disclosure under section 552.105 of the Government Code.

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,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', with a long horizontal line extending to the right.

Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/nc

Ref.: ID# 118500

cc: Mr. Ben Wear  
Austin American-Statesman  
P.O. Box 670  
Austin, Texas 78767  
(w/o enclosures)