OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

March 5, 1999

Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR99-0632

Dear Ms. Soldano:

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# 123570.

You assert that the requested information is excepted from disclosure based on section 552.105 of the Government Code. Section 552.105 excepts from required public disclosure information "relating to"

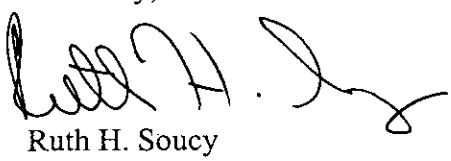
> (1) the location of real or personal property for a public purpose prior to public announcement of the project; or
>
> (2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

This exception protects a governmental body's planning and negotiating position with respect to particular transactions and its protection is therefore limited in duration. Open Records Decision No. 357 (1982). To show the applicability of section 552.105, a governmental body must first make a good faith determination that the release of information could damage its negotiating position with respect to the acquisition of property, subject to review by this office. Open Records Decision No. 564 (1990). Section 552.105(1) is generally inapplicable when the governmental body has publicly announced the project. Section 552.105(2) is generally inapplicable once the governmental body has entered into a final contract for the property at issue. Open Records Decision No. 222 (1979).

When section 552.105 is applicable, it protects not only information showing the location of property, appraisal reports specific to that property, and purchase price of the property, but also related information. Open Records Decision No. 564 (1990). We have reviewed the information at issue and your arguments, and agree that you may withhold the information, at this time, from disclosure under section 552.105.

In light of our conclusion under section 552.105, we need not address the other exceptions raised, if any. 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.

Sincerely,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 123570

Enclosures: Submitted documents

cc: Mr. William G. Shaw
Massey, Shaw & West
201 S. Broadway
Brownwood, Texas 76801
(w/o enclosures)