



February 14, 2000

Mr. John Steiner
Division Chief
Legal Department
City of Austin
P.O. Box 1546
Austin, Texas 78767-2268

OR2000-0515

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 133653.

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. This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Yen-Ha Le". The signature is written in a cursive, slightly slanted style.

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/ch

Ref: ID# 133653

Encl. Submitted documents

cc: Mr. Grant D. Godfrey
Staff Attorney
S.O.S. Alliance
P.O. Box 684881
Austin, Texas 78768
(w/o enclosures)