



May 9, 2000

Mr. William E. Wood  
Office of the City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2000-1785

Dear Mr. Wood:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135500.

The City of San Antonio (the "city") received a request for "the most recent Summary Appraisal Report and Valuation Analysis[] regarding the Lowe Enterprises .0421 acre tract." You claim that the requested information is excepted from disclosure under sections 552.103 and 552.105 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.105 of the Government Code excepts from disclosure information relating to:

- (1) the location of real or personal property for a public purpose prior to the 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 contract 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 negotiation may be excepted so long as the transaction is not complete. Open Records Decision No. 310 (1982). Whether a particular appraisal report falls under section 552.105(2) is a question of fact. This office will accept a governmental body's good faith determination that release of an appraisal report would damage its future negotiating position, unless the contrary is clearly shown as a matter of law. *Id.*

You assert that the requested information pertains to a parcel of real property that the city plans to purchase for the construction of a municipal parking garage. You inform us that the requested information was prepared to assist the city in negotiations for the purchase of the parcel, and that the city has not completed negotiations to acquire the parcel. You contend that release of the requested information would adversely affect the city's acquisition of that property. After examining your arguments and the submitted information, we find that section 552.105 is applicable in this instance. You may withhold the submitted "Summary Appraisal Report and Valuation Analysis" from required public disclosure under section 552.105 of the Government Code. However, once the transaction has been completed, the information may no longer be withheld, unless excepted from disclosure by some other provision of the Public Information Act. Open Records Decision No. 310 (1982). Because section 552.105 is dispositive, we do not address your argument under section 552.103 at this time.

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 Department 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,



Kathryn S. Knechtel  
Assistant Attorney General  
Open Records Division

KSK/ljp

Ref: ID# 135500

Encl. Submitted documents

cc: Mr. Paul D. Barkhurst  
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711 Navarro, Sixth Floor  
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(w/o enclosures)