



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 4, 2007

Ms. Paula J. Alexander  
General Counsel  
Metropolitan Transit Authority of Harris County  
1900 Main, Third Floor  
Houston, Texas 77002

OR2007-05267

Dear Ms. Alexander:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 277635.

The Metropolitan Transit Authority of Harris County ("Metro") received a request for "a copy of the most current Displacement and Acquisitions list for properties on the North Corridor Locally Preferred Alternative route" to include certain information in a particular format. 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.

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 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.

Gov't Code § 552.105. Section 552.105 is designed to protect a governmental body's planning and negotiating position with respect to particular transactions. *See* Open Records Decision No. 564 at 2 (1990). However, the protection offered by this section is limited in

duration. The protection of section 552.105(1) ends upon the public announcement of the project for which the property is being acquired, while the protection of section 552.105(2) ends upon the governmental body's acquisition of the property in question. Gov't Code § 552.105; Open Records Decision No. 222 at 1-2 (1979). Because section 552.105(2) encompasses information relating to the appraisals and purchase price of property, it protects more than just the purchase price or appraisal of a specific piece of property. Thus, the location of property to be acquired may be withheld under section 552.105(2) if releasing the location could affect the purchase price of the property. The question of whether specific information, if publicly released, would impair a governmental body's planning and negotiation position in regard to particular transactions is a question of fact. Accordingly, this office will accept a governmental body's good faith determination in this regard, unless the contrary is clearly shown as a matter of law. See Open Records Decision No. 564 (1990).

You state that Metro, in accordance with federal regulations, was required to prepare a Final Environmental Impact Statement disclosing a list of potential impact to properties along the North Corridor. You also state this list is preliminary and subject to change since no definitive decision has been made as to the parcels of property Metro will acquire for the project. You further state that no contracts have been executed with regard to the acquisition of these properties. Thus, you assert that releasing the information at issue would impair Metro's planning of the project and negotiating position with respect to the ultimate acquisition of properties. Based on your representations and our review of the submitted information, we conclude that Metro may withhold the submitted information under section 552.105 of the Government Code.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the

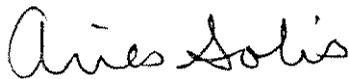
Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor 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 Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

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,



Aries Solis  
Assistant Attorney General  
Open Records Division

AS/eeg

Ref: ID# 277635

Enc. Submitted documents

c: Mr. Rad Sallee  
Houston Chronicle  
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(w/o enclosures)