



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 4, 2008

Ms. Lesli R. Barber  
Texas General Land Office  
P.O. Box 12873  
Austin, Texas 78701

OR2008-04525

Dear Ms. Barber:

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# 306703.

The Texas General Land Office (the "GLO") received a request for information related to a specified tract of land.<sup>1</sup> You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative samples of information.<sup>2</sup>

Initially, you state that the information in Attachment B was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2007-11968 (2007) and 2008-00894 (2008). You state that the law, facts, and circumstances on which these prior rulings were based have not changed; therefore, the GLO must continue to rely on these rulings as previous determinations and withhold or release this information in accordance with Open Records Letter Nos. 2007-11968 and 2008-00894. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where

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<sup>1</sup>You state that the GLO sought and received clarification from the requestor. We note that the Act permits a governmental body to seek clarification from a requestor. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

<sup>2</sup>We assume that the representative samples of records submitted to this office are 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.

requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes. You raise section 552.101 in conjunction with section 11.086(a) of the Natural Resources Code. Section 11.086(a) provides in relevant part as follows:

Information relating to the development, location, purchase price, or sale price of real property developed, purchased, or sold by or for the School Land Board, Veterans' Land Board, land office, or commissioner under authority granted by this code, including a contract provision related to the development, purchase, or sale of the property, is confidential and exempt from disclosure under [the Act], until all deeds for the property that are applicable to the transaction or series of related transactions are executed and until all substantive performance or executory requirements of applicable contracts have been satisfied. Information that is confidential and exempted from disclosure under this subsection includes an appraisal, completed report, evaluation, or investigation conducted for the purpose of locating or determining the purchase or sale price of the property, or any report prepared in anticipation of developing, purchasing, or selling real property.

Nat. Res. § 11.086(a). You state that the information in Attachment C relates to the sale price of real property sold by and for the School Land Board under authority granted by the Natural Resources Code. You also inform this office that the "executory requirements of applicable contracts have not been satisfied" regarding the property at issue. Based on your representations and our review, we find that the information in Attachment C is confidential under section 11.086(a) of the Natural Resources Code and must be withheld under section 552.101 of the Government Code.

In summary, the GLO must continue to rely on Open Records Letter Nos. 2007-11968 and 2008-00894 with regards to Attachment B. The GLO must withhold the information in Attachment C under section 552.101 of the Government Code in conjunction with section 11.086(a) of the Natural Resources Code. As our ruling is dispositive, we need not address your remaining argument against disclosure.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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,



Loan Hong-Turney  
Assistant Attorney General  
Open Records Division

LH/eeg

Ref: ID# 306703

Enc. Submitted documents

c: Mr. J. A. "Jake" Dyer  
Fort Worth Star Telegram  
1005 Congress, Suite 920  
Austin, Texas 78701  
(w/o enclosures)