



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 27, 2009

Mr. Robert J. Davis  
Matthews, Stein, Shiels, Pearce, Knott, Eden & Davis, L.L.P.  
8131 LBJ Freeway, Suite 700  
Dallas, Texas 75251

OR2009-10338

Dear Mr. Davis:

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# 350375 (County file number 1600/62689).

Collin County (the "county"), which you represent, received a request for any reports or list of projects generated to determine current workload, activities, or planning for real estate acquisition activities, as well as "property owners mailing lists" for projects involving property being acquired for public work projects. You state the county has provided the requested information regarding mailing lists to the requestor. You claim the submitted right of way acquisition 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 regard to particular transactions. *See* Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982). Information excepted from disclosure under section 552.105 that pertains to such negotiations may be excepted from disclosure so long as the transaction relating to that information is not complete. *See* ORD 310. But, the

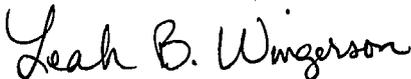
protection offered by section 552.105 is not limited solely to transactions not yet finalized. This office has concluded that information about specific parcels of land obtained in advance of other parcels to be acquired for the same project could be withheld where release of the information would harm the governmental body's negotiating position with respect to the remaining parcels. *See* ORD 564 at 2. A governmental body may withhold information "which, if released, would impair or tend to impair [its] 'planning and negotiating position in regard to particular transactions.'" ORD 357 at 3 (quoting Open Records Decision No. 222 (1979)). The question of whether specific information, if publicly released, would impair a governmental body's planning and negotiating position with 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* ORD 564.

You state the submitted information pertains to the appraisal and purchase price of real property the county has purchased or intends to purchase for its highway expansion project named "Outer Loop Project." You explain that while some of the property listed in the submitted information has already been purchased or obtained by the county, other property listed in the submitted information is still in negotiations or eminent domain proceedings. You claim that release of the submitted information would significantly harm the county's negotiating position with respect to the property yet to be acquired. Based on your representations and our review of the information in question, we conclude the county may withhold the submitted information under section 552.105 of the Government Code.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 350375

Enc: Submitted documents

c: Requestor  
(w/o enclosures)