



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 6, 2009

Mr. Leonard V. Schneider  
Ross, Banks, May, Cron & Cavin, P.C.  
Attorney for City of League City  
2 Riverway, Suite 700  
Houston, Texas 77056-1918

OR2009-10909

Dear Mr. Schneider:

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# 351602.

The City of League City (the "city"), which you represent, received a request for information pertaining to the city's real estate acquisition activities, as well as a copy of property owners whose property is currently being acquired. You claim that the submitted information is excepted from disclosure under section 552.105 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, you state that the city does not have a report or list of projects pertaining to the present request. We also understand the city to assert that they do not maintain the requested mailing lists. We note that the Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983). However, we further note that a governmental body has a duty to make a good faith effort to relate a request for

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<sup>1</sup>Although you raise section 552.101 of the Government Code, you have not asserted any law under which any of the information at issue is considered to be confidential for purposes of section 552.101. Thus, we assume you no longer claim this exception. See Gov't Code §§ 552.301, .302.

information to information that the governmental body holds or to which it has access. Open Records Decision No. 561 (1990). You state that the city possesses maps that indicate possible areas for the planning of real estate acquisitions. As you have submitted these maps for our review and raised an exception to disclosure for this information, we consider the city to have made a good faith effort to identify information that is responsive to the request, and we will address the applicability of section 552.105 of the Government Code for this information.

Section 552.105 excepts from disclosure information that relates 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.

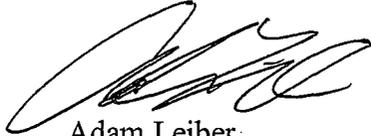
*Id.* § 552.105. Section 552.105 is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. *See* Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982). Information pertaining to such negotiations that is excepted from disclosure under section 552.105 may be withheld so long as the transaction relating to the negotiations is not complete. *See* ORD 310. Under section 552.105, 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 in regard to particular transactions is a question of fact. Thus, 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 explain that the city is in the process of exploring real estate options for a transit station project. You state that the submitted maps indicate probable areas for real estate acquisition by the city. You further state that the maps provide detailed information about the properties and identify a specific scoring criteria that the city uses to determine future land acquisitions. You indicate that the release of the submitted maps would negatively affect the city's negotiating position with respect to the future acquisition of the properties. Based on your representations, we conclude that the city 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,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/rl

Ref: ID# 351602

Enc. Submitted documents

c: Requestor  
(w/o enclosures)