



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 25, 2010

Ms. Melissa L. Barloco  
Division Chief, Real Property  
Harris County Attorney's Office  
1310 Prairie, Room 940  
Houston, Texas 77002

OR2010-01134

Dear Ms. Barloco:

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# 368040.

The Harris County Public Infrastructure Department (the "department") received a request for eight categories of information pertaining to the recommended purchase of a specified property. 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.<sup>1</sup> We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note a portion of the submitted information is not responsive to the instant request as it does not pertain to the categories of information requested. We have marked the non-responsive information. This ruling does not address the public availability of any information that is not responsive to the request and the department need not release that information in response to the request.

Section 552.105(2) of the Government Code excepts from disclosure information relating to "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(2). 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).

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<sup>1</sup>We assume that the representative sample of records submitted to this office is 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.

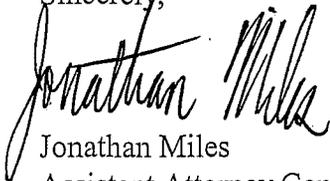
Information pertaining to such negotiations that is excepted from disclosure under section 552.105 may be withheld so long as the transaction relating to the negotiations is not complete. *See* Open Records Decision No. 310 (1982). Under section 552.105, a governmental body may withhold information “which, 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 negotiation 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.

In this instance, you state that the department has determined that the release of the responsive submitted information would impair the department’s negotiating position with regard to the purchase of the property in question. The requestor, however, asserts that the price of the property has already been determined and that the “[c]ounty commissioner’s [sic] voted to purchase this tract on November 16, 2009.” Further, the requestor contends that the county, or a representative thereof, announced the general location of the project at a public meeting, and thus, that the information at issue is no longer excepted under section 552.105. However, we note that there is no indication that there has been a formal award of contracts or that the purchase of the property is complete. Accordingly, based on your representations and our review of the information, we conclude that the department may withhold the responsive information under section 552.105(2) 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, toll free, at (888) 672-6787.

Sincerely,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 368040

Enc. Submitted documents

c: Requestor  
(w/o enclosures)