



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 1, 2010

Ms. Jakki A. Hansen
Mr. Matthew Wright
Metropolitan Transit Authority
P.O. Box 61429
Houston, Texas 77208-1429

OR2010-03004

Dear Ms. Hansen and Mr. Wright:

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# 371516 (MTA No. 2010-0049).

The Metropolitan Transit Authority (the "authority") received a request for the initial offer and purchase price of seventeen parcels related to the Wheeler Metro Project. You state that the authority has released information related to fifteen of the parcels. You claim that the submitted 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(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." Gov't Code § 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). 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, and provide documentation showing, the authority has not finalized the purchase of the parcels at issue, as it is scheduled to go to trial to resolve matters related to the acquisition of the parcels in question. You further state that the authority has made a good faith determination that the release of the information at issue would impair the authority's negotiating position with regard to the purchase of the parcels in question. Accordingly, based on your representations and our review of the information, we conclude that the authority may withhold the information at issue 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, 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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 371516

Enc. Submitted documents

c: Requestor
(w/o enclosures)