



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 5, 2010

Mr. Darrell G-M Noga
Fee, Smith, Sharp & Vitullo, L.L.P.
For City of Coppell
13155 Noel Road, Suite 1000
Dallas, Texas 75240

OR2010-15145

Dear Mr. Noga:

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# 395726 (RPI Nos. 10099, 10102, and 10106).

The City of Coppell (the "city"), which you represent, received requests from three requestors for (1) the former mayor's city cellular telephone records and e-mails during specified time periods; (2) information during specified time periods regarding city-issued credit cards, city council members' expenditures, audits, and specified correspondence involving the former mayor, city manager, or city council members; and (3) a specified report regarding the former mayor's credit card use, a specified letter from the city manager to the city attorney, and specified correspondence involving the former mayor.¹ You state the city will provide most of the requested information to the requestors. You claim the remaining requested information is excepted from disclosure under sections 552.105, 552.107, 552.111,

¹You state, and provide documentation showing, the city received clarification from two of the requestors regarding their requests. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

and 552.131 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted representative sample of information.³

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. 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 e-mails and attachments pertain to parcels of land the city is negotiating to purchase for public use. You state release of the information at issue would harm the city's negotiating position with respect to the purchase of the land at issue. Based on your representations and our review of the information, we conclude the city may withhold the correspondence at issue under section 552.105 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

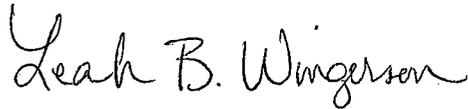
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

²Although you also raise section 552.101 of the Government Code in conjunction with section 552.107 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990).

³We assume 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 those records contain substantially different types of information than that submitted to this office.

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 395726

Enc. Submitted documents

c: Requestors
(w/o enclosures)