



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 26, 2010

Ms. Dana M. Cooley
Attorney at Law
City of Snyder
P.O. Box 1006
Snyder, Texas 79550

OR2010-16200

Dear Ms. Cooley:

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# 398056.

The City of Snyder (the "city"), which you represent, received a request for all contracts, correspondence, letters, faxes, e-mails, and text messages between the city, its employees/officials, and a named individual and his economic development firm from January 1, 2010 to the date of the request. You state you have released some information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.105 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.105 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 respect to particular transactions. Open Records Decision Nos. 564 at 2, 357 (1982), 310 (1982). Information that is 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 city has made a good-faith determination that the information you marked in Exhibit C relates to the appraisal or purchase price of real property that the city intends to purchase. Further, you state that release of the information at issue would harm the city's planning and negotiating position with respect to the acquisition of the property at issue. Based on your representations and our review, we conclude the city may withhold the information you marked in Exhibit C under section 552.105 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the owner of the e-mail address consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). You have marked an e-mail address in Exhibit B that is subject to section 552.137(a). You state the owner of the e-mail address has not consented to its release. Therefore, the city must withhold the e-mail address you marked in Exhibit B pursuant to section 552.137. Further, we marked an additional e-mail address in Exhibit B that must be withheld under section 552.137, unless the owner of the address affirmatively consents to its release.¹

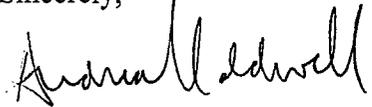
In summary, the city may withhold the information you marked in Exhibit C under section 552.105 of the Government Code. The city must withhold the e-mail address you marked in Exhibit B pursuant to section 552.137 of the Government Code. The city must withhold the additional e-mail address we marked in Exhibit B under section 552.137 of the Government Code, unless the owner of the address affirmatively consents to its release. The remaining information must be released.

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.

¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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,



Andrea L. Caldwell
Assistant Attorney General
Open Records Division

ALC/eeg

Ref: ID# 398056

Enc. Submitted documents

c: Requestor
(w/o enclosures)