



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2010

Ms. Laura Garza Jimenez
Nueces County Attorney
901 Leopard, Room 207
Corpus Cristi, Texas 78401

OR2010-17878

Dear Ms. Jimenez:

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# 401312.

Nueces County (the "county") received a request for flood claim reports the county has received from the Federal Emergency Management Agency ("FEMA") or the National Flood Insurance Program to conduct business for the purpose of drafting a grant application called the Repetitive Flood Claims. You claim the requested information is excepted from disclosure under sections 552.101 and 552.105 of the Government Code. In addition, you assert release of some of the requested information may implicate the interests of FEMA. Accordingly, you state you notified FEMA of this request for information and of its right to submit arguments to this office as to why its information should not be released. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released). 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 the following:

- (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 the county intends to use the submitted information for the purpose of drafting a grant application to buy the land at issue. Therefore, you state the requested information relates to the appraisal or purchase price of real property the county intends to purchase. We understand you to state the county has made a good faith determination that release of the information at issue would harm the county's ability to negotiate for the purchase of this land. Based on your representations, we conclude the county may withhold the requested 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, 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# 401312

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Jill Igert
FEMA Region 6
800 North Loop 288
Denton, Texas 76209
(w/o enclosures)