



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 11, 2011

Mr. James W. Wilson
For the Rockett Special Utility District
Rapier, Wilson & Wendland, P.C.
1333 West McDermott, Suite 100
Allen, Texas 75013

OR2011-14720

Dear Mr. Wilson:

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# 432804.

The Rockett Special Utility District (the "district"), which you represent, received a request for (1) the map and physical location of two specified capital improvement projects, and (2) a list of owners that the district needs to acquire a right-of-way from for the same two projects. You state the district has released some information to the requestor. You claim 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 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. We note this provision 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 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. 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.’” Open Records Decision Nos. 357 at 3, 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 requested information relates to the physical location of two specified capital improvement projects. You assert the district has made a good-faith determination that the release of the submitted information, including the identification of properties and property owners’ names and addresses, would damage the district’s negotiating position and harm the district’s ability to acquire right-of-way easements and certain tracts of land required for both projects. Based on your representations, we conclude the district may withhold the submitted 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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/agn

Ref: ID# 432804

Enc. Submitted documents

c: Requestor
(w/o enclosures)