



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 1, 2012

Ms. Lindsey Bartula
Assistant General Counsel
University of North Texas System
1155 Union Circle #310907
Denton, Texas 76203-4017

OR2012-01637

Dear Ms. Bartula:

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# 444061.

The University of North Texas (the "university") received a request for communications between university employees and two named individuals regarding the formation, operation, or application for a public charter school. You indicate some information has been released to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.105 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.¹

You raise section 552.105(1) of the Government Code for the information you have marked. Section 552.105(1) excepts from disclosure information relating to "the location of real or personal property for a public purpose prior to public announcement of the project[.]" Gov't Code § 552.105(1). 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 (1990), 357 (1982), 310 (1982). Information 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

¹We 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.

released, would impair or tend to impair [its] 'planning and negotiating position in regard to particular transactions.'" ORD 357 at 3 (quoting Open Record 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 information you have marked pertains to a location for which the university is currently negotiating a lease, and the project it pertains to has not been publicly announced. You state the university has made a good-faith determination that release of the information at issue would place the university at a disadvantage in its negotiating position with regard to the property. Based on your representations and our review, we conclude the university may withhold the information you have marked under section 552.105(1) of the Government Code. As you raise no additional exceptions to disclosure, the remaining information must be released to the requestor.

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,



Misty Haber Barham
Assistant Attorney General
Open Records Division

MHB/agn

Ref: ID # 444061

Enc. Submitted documents

c: Requestor
(w/o enclosures)