



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 12, 2012

Ms. Neera Chatterjee
Office of General Counsel
University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2012-09006

Dear Ms. Chatterjee:

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# 456298 (OGC# 142878).

The University of Texas at Austin (the "university") received a request for information pertaining to the acquisition of a specified property.¹ You state you will redact bank account and routing numbers pursuant to section 552.136 of the Government Code.² You claim that the submitted information is excepted from disclosure under sections 552.101, 552.105, 552.107, and 552.111 of the Government Code. You also state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified the interested third parties of the request for information and of their right to submit arguments to this office as

¹You state the university received clarification of the information requested. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if a 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).

²Section 552.136(c) authorizes a governmental body to redact the information described in section 552.136(b) without the necessity of seeking an attorney general decision. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

to why the submitted information should not be released.³ *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exceptions you claim and reviewed the submitted representative sample of information.⁴

Initially, we note the submitted information includes information subject to section 552.022 of the Government Code, which provides, in pertinent part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108; [and]

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(1), (3). The submitted information contains completed appraisal reports that fall within the purview of section 552.022(a)(1), and a contract and information in accounts relating to the expenditure of public funds that falls within the purview of section 552.022(a)(3). The university may withhold the information subject to section 552.022(a)(1) only if it is made confidential under the Act or other law or is excepted from disclosure under section 552.108 of the Government Code. *Id.* § 552.022(a)(1). The submitted contract and information in accounts relating to the expenditure of public funds may only be withheld if expressly confidential under the Act or other law. *See id.* § 552.022(a)(3). You claim the information at issue is excepted from disclosure under section 552.105 of the Government Code. However, section 552.105 is a discretionary exception that protects a governmental body's interests and does not make information

³The notified third parties are: The Aegis Group, Inc.; GeoSearch; Integra Realty Resources; Paul Hornsby & Company; Riverside Resources Investments, Ltd; Wilson, Sterling & Russell; and the two individuals selling the property.

⁴We assume that 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 that those records contain substantially different types of information than that submitted to this office.

confidential under the Act for purposes of section 552.022. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 564 (1990) (statutory predecessor to section 552.105 subject to waiver). Therefore, the university may not withhold the information at issue under section 552.105 of the Government Code. However, because section 552.101 of the Government Code protects information made confidential by law, we will address whether the submitted information may be withheld under this section. We will also consider your arguments for the information not subject to section 552.022.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes, such as section 51.951 of the Education Code. Section 51.951 provides in part:

(a) Information related to the location, purchase price, or sale price of real property purchased or sold by or for an institution of higher education, as defined by Section 61.003 [of the Education Code], is confidential and exempt from disclosure under Chapter 552, Government Code, until a deed for the property is executed. Information that is confidential and exempted from disclosure under this subsection includes an appraisal, completed report, evaluation, investigation conducted for the purpose of locating or determining the purchase or sale price of the property, or any report prepared in anticipation of purchasing or selling real property.

Educ. Code § 51.951. You state the university is an institution of higher education under section 61.003 of the Education Code. You state the information at issue relates to a piece of property being acquired for the benefit of the university and contains “evaluations and analysis conducted in anticipation of acquiring the [p]roperty[.]” You explain the transaction remains pending, and the deed has not yet been executed. Based on your representations and our review, we agree the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.951 of the Education 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.

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,



Sarah Casterline
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Open Records Division

SEC/som

Ref: ID# 456298

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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