



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 27, 2012

Ms. Lisa M. Biediger
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2012-11743

Dear Ms. Biediger:

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# 460496 (COSA File No W007497-051012).

The City of San Antonio (the "city") received a request for correspondence and related documents between the city and Texas A&M University (the "university") regarding Museo Alameda from a specified time period. You state you have released some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.105, 552.106, 552.110, 552.111, and 552.131 of the Government Code. You also state release of this information may implicate the proprietary interests of the university. Accordingly, you have notified the university of the request 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 (providing that 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 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.

Id. 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

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. But the protection offered by section 552.105 is not limited solely to transactions not yet finalized. This office has held that section 552.105 applies to leases as well as purchases of real estate. *See* Open Records Decision No. 348 (1982). 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 submitted information “relate[s] to the ongoing negotiations concerning the location of real property which will be used for public purpose and the award of final contracts for the property.” You assert the city has made a good-faith determination that release of this information would impair or tend to impair the city’s planning and negotiating position in regard to the transactions in question. Based on your representations, we conclude the city may withhold the submitted information under section 552.105 of the Government 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
Assistant Attorney General
Open Records Division

SEC/som

Ref: ID# 460496

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)
