



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 12, 2013

Ms. Donna L. Johnson
Olson & Olson, L.L.P.
2727 Allen Parkway, Suite 600
Houston, Texas 77019-2133

OR2013-15846

Dear Ms. Johnson:

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# 500786 (City Ref. No. CLS13-003).

The City of Clear Lake Shores (the "city"), which you represent, received a request for information, including communications with a named individual, the Economic Development Corporation for the city (the "EDC"), and current or prior board members of the EDC, regarding "any property in the city" for a specified period of time. The city states it has released some of the requested information but claims the submitted information is excepted from disclosure under sections 552.105, 552.111, and 552.131 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Section 552.105 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.

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

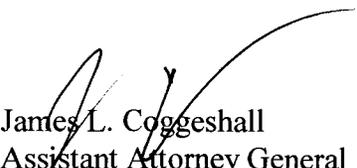
disclosure under section 552.105 that pertains to such negotiations may be excepted from disclosure so long as the transaction relating to that information is not complete. *See* ORD 310. This office has held section 552.105 applies to leases as well as purchases of real estate. *See* Open Records Decision No. 348 (1982). A governmental body may withhold information that “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 explain the submitted information pertains to negotiations between the city and a prospective business seeking to locate within the city. Specifically, you assert the information pertains to leasing negotiations that clearly state price and location. You assert the city has made a good-faith determination that release of this information would damage the city’s negotiation position in regard to the transaction in question. Based on your representations and our review, we conclude the city may withhold the submitted information under section 552.105 of the Government Code.¹

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

¹As our ruling is dispositive, we do not address your other arguments to withhold this information.

Ref: ID# 500786

Enc. Submitted documents

c: Requestor
(w/o enclosures)