



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 30, 2013

Ms. Leticia McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2013-18882

Dear Ms. McGowan:

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# 504087.

The Dallas Independent School District (the "district") received a request for information pertaining to the Collins Company, Lincoln Property Company, and Solender/Hall, including agreements, checks and invoices, and e-mails created during a specified time period. You state the district will release some of the requested information with the redaction of certain information pursuant to Open Records Decision 684 (2009).¹ You claim the requested information is excepted from disclosure under sections 552.105, 552.107, and 552.111 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information under the Act without the necessity of requesting an attorney general decision.

²Although you also raise section 552.101 of the Government Code in conjunction with the attorney-client privilege under Texas Rule of Evidence 503 and the attorney work product privilege under Texas Rule of Civil Procedure 192.5, this office has concluded section 552.101 does not encompass discovery privileges. See Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Further, we note the information is properly addressed here under section 552.107, rather than rule 503, and section 552.111, rather than rule 192.5. ORD 676 at 3.

Section 552.105 of the Government Code 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. Section 552.105 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 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 concluded that information about specific parcels of land obtained in advance of other parcels to be acquired for the same project could be withheld where release of the information would harm the governmental body's negotiating position with respect to the remaining parcels. *See* ORD 564 at 2. 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.'" ORD 357 at 3 (quoting Open Records 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 submitted information pertains to "properties that the [district] has considered for purchase and as alternative sites" and the "documents identify all relevant properties for the proposed transactions." You explain a final agreement on the purchase of these properties has not been reached or approved by the district at this time and negotiations are ongoing. You state the district has made a good faith determination that releasing the submitted information would harm the district's negotiating position and could hamper the district's ability to identify and secure property sufficient to meet the needs of the district. Based on your representations and our review of the information at issue, we conclude the district may withhold the submitted information under section 552.105 of the Government Code.³

³As our ruling is dispositive for this information, we need not address your remaining argument against its 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.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,

Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 504087

Enc. Submitted documents

c: Requestor
(w/o enclosures)