



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 14, 1996

Ms. Jo Ann Wright
Assistant General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Building
125 E. 11th Street
Austin, Texas 78701-2483

OR96-1451

Dear Ms. Wright:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 35114.

The Texas Department of Transportation (the "department") received a request for information "relating to the proposed disposition of approximately 6,479 acres of state owned land in Fort Bend County." Specifically, the requestor seeks the following:

- 1) All real estate appraisals, broker's opinions of value, and marketing studies/proposals from 1986 forward to present.
- 2) All development feasibility studies, engineering studies, and environmental studies from 1986 to the present.
- 3) All marketing information, listing agreements, and offers and/or contracts to purchase from 1986 forward to the present.

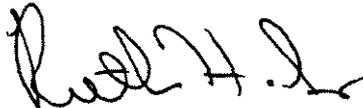
From the information provided to this office, it appears the department proposes to sell the acreage. You state that the requested information contains appraisal and development value information about the land and, thus, the requested information is excepted from disclosure pursuant to section 552.104 of the Government Code. You have submitted samples of the requested information to this office for review.¹ We have considered the exception you claimed and have reviewed the sample documents.

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records

Section 552.104 excepts information that, if released, would give advantage to a competitor or bidder. The purpose of this exception is to protect the interests of a governmental body in competitive bidding situations. See Open Records Decision No. 592 (1991). This exception protects information from public disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. See Open Records Decision Nos. 593 (1991) at 2, 463 (1987), 453 (1986) at 3. A general allegation of a remote possibility that some unknown "competitor" might gain some unspecified advantage by disclosure does not trigger section 552.104. Open Records Decision No. 463 (1987) at 2. However, from the information provided concerning the possible sale of the acreage, we believe that the department has met its burden of establishing specific harm to its interests in this particular situation. Therefore, the department may withhold from disclosure the requested information pursuant to section 552.104.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/SAB/ch

Ref.: ID# 35114

Enclosures: Submitted documents

cc: Mr. Wayne B. Baer
16130 Hexham Drive
Spring, Texas 77379
(w/o enclosures)

(Footnote continued)

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.

Ms. Frances Willison, P.E.
District Right of Way
Texas Department of Transportation
P.O. Box 1386
Houston, Texas 77251
(w/o enclosures)