



## Office of the Attorney General

State of Texas

November 13, 1996

DAN MORALES  
ATTORNEY GENERAL

Mr. Michael A. Bucek  
First Assistant City Attorney  
City of Denton  
215 East McKinney  
Denton, Texas 76201

OR96-2075

Dear Mr. Bucek:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 101853.

The City of Denton (the "city") received two open records requests for various items pertaining to the creation of the Denton County Development District No. 1 (the "district"). You state that the city either does not possess many of the requested documents or that because one of the requestors has framed some of his requests in the form of questions the city is not required to respond to those requests. *See* Open Records Decision Nos. 445 (1986) (Open Records Act does not require governmental body to obtain information not in its possession), 347 (1982) (Open Records Act does not require governmental body to answer factual questions).<sup>1</sup> We agree that a governmental body need not create new information to respond to a request for information or answer general questions. Open Records Decision Nos. 561 (1990), 555 (1990), 534 (1989); *cf.* Open Records Decision No. 561 (1990) (governmental body must make good faith effort to relate request to information it holds).

You seek to withhold, however, four documents that you have identified as coming within the ambit of the requests. With regard to those documents you have invoked the

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<sup>1</sup>We note that, although we also agree that some of the requests for information are vague in that they do not specify particular documents being sought, those requests may not be disregarded by the city. When a requestor makes a vague request, it is incumbent on the city to make a good faith effort to advise the requestor of the type of documents available so that the requestor may narrow or otherwise clarify the request. *See* Open Records Decision No. 87 (1975).

protection of sections 552.103, 552.105, 552.106, 552.107, and 552.110 of the Government Code.<sup>2</sup>

Section 552.105(2) excepts from required public disclosure information relating to the "appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property." This office has addressed the applicability of this section only in instances where a governmental body, as defined in Government Code section 552.003, intends to acquire property for a public purpose. *See, e.g.,* Open Records Decision No. 357 (1982). The purpose of section 552.105(2) is to protect a governmental body in its planning and negotiation with regard to a particular transaction; this exception applies only until negotiations for the particular transaction are concluded and the purchase of the property has been completed. Open Records Decision No. 222 (1979).

Based on the facts before us, we agree that the city may withhold Exhibits 5, 6, 7, and 8 at this time<sup>4</sup> pursuant to section 552.105(2) of the Government Code. Because we resolve your request under section 552.105(2), we need not address the applicability of the other exceptions you have raised.

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,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

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<sup>2</sup>Although you also contend that the document you have designated as Exhibit 4 is excepted from required public disclosure, you have raised no specific exception to required public disclosure with regard to this document. We therefore conclude the city must release Exhibit 4. *See* Gov't Code §§ 552.301(a), 552.302.

<sup>3</sup>Although section 552.105(1) protects "the location of real or personal property for a public purpose prior to public announcement of the project," this subsection is inapplicable here because the city has publicly discussed the location of the property proposed for development.

<sup>4</sup>Because section 552.105(2) protects information pertaining to the planning and negotiation only with regard to particular transactions, this ruling should not be interpreted to extend the protection of section 552.105(2) to any of the documents at issue once the current negotiations end, regardless of the outcome. We note, however, that should the city receive a request for this information after the current negotiations end, the city should re-submit its arguments under the other claimed exceptions at that time.

Ref.: ID# 101853

Enclosures: Submitted documents

cc: Mr. Jerry C. Drake  
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(w/o enclosures)

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