



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 10, 1997

Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR97-2266

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 109292.

The Texas Department of Transportation (the "department") received a request for "a list of Carrollton property owners (with phone numbers) who have not yet settled right-of-way negotiations with TxDOT regarding proposed State Highway 190 and; information regarding the scheduled date of right-of-way acquisition." You claim that the requested information is excepted from disclosure pursuant to section 552.105 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

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.

Section 552.105 is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982). Information excepted under section 552.105 that pertains to such negotiations may be excepted so

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

long as the transaction is not complete. Open Records Decision No. 310 (1982). Because this exception extends to "information pertaining to" the location, appraisals, and purchase price of property, it may protect more than a specific appraisal report prepared for a specific piece of property. Open Records Decision No. 564 (1990) at 2. For example, this office has concluded that appraisal information about parcels of land acquired in advance of others to be acquired for the same project could be withheld where this information would harm the governmental body's negotiating position with respect to the remaining parcels. *Id.* 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 No. 357 (1982) at 3 (quoting Open Records Decision No. 222 (1979)).

You advise us that the department originally acquired the real estate for State Highway 190, but that recently the property has come under the jurisdiction of the Texas Turnpike Authority (TTA), which continues to purchase additional rights-of-way. We note that, in a previous request to this office which resulted in our issuance of Open Records Letter No. OR97-1057, you submitted to us a copy of an order from the Texas Transportation Commission providing for the joint funding of the Highway 190 project between the department and TTA. Therefore, we have examined the documents submitted to us for review and presume that the department has made a good faith determination that release of the submitted documents would damage its negotiating position with respect to the purchase of the property. Accordingly, the submitted documents may be withheld from required public disclosure under section 552.105 of the Government Code.

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 any questions about this ruling, please contact our office.

Yours very truly,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref: ID# 109292

Enclosures: Submitted documents

cc: Mr. Scott Boyter
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(w/o enclosures)