



October 13, 1999

Mr. John Steiner
Division Chief
Law Department
City of Austin
P.O. Box 1546
Austin, Texas 78767-1546

OR99-2920

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128865.

The City of Austin (the "city") received a written request for "all documents that relate to the decision to acquire the Onion Creek Destination Park final selection." You contend the requested information is excepted from required public disclosure pursuant to section 552.105 of the Government Code.

Section 552.105(2) of the Government Code excepts from required public disclosure "information relating to . . . 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 protects information the release of which would impair or tend to impair the governmental body's "planning and negotiating position in regard to particular transactions." Open Records Decision No. 222 (1979).

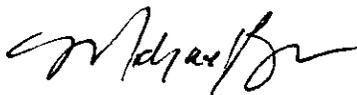
You contend that section 552.105(2) applies to the requested information because

[t]he City is engaged in ongoing negotiations for the purchase of parkland The requested information directly affects the City's negotiation position with respect to its real estate acquisition program. For example, knowledge of the priority the city assigns to each parcel of land within the targeted area, and the criteria used to assign the priorities, may cause a potential seller to increase the asking price.

Whether particular information falls under the protection of section 552.105 is a question of fact, and the attorney general will accept a governmental body's good faith determination that release of certain information would damage its future negotiating position, unless the contrary is clearly shown as a matter of law. Open Records Decision No. 564 (1990). We believe your contentions regarding the applicability of section 552.105(2) to the records at issue to be reasonable in this instance. Therefore, the city may at this time withhold the information at issue.

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.

Sincerely,



Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/RWP/nc

Ref.: ID# 128865

cc: Mr. Mark Medley
7109 Dixie Drive
Austin, Texas 78744
(w/o enclosures)