



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

January 5, 2004

Ms. Noelle C. Letteri  
Attorney  
Legal Services Division  
Texas General Land Office  
P.O. Box 12873  
Austin, Texas 78711-2873

OR2004-0019

Dear Ms. Letteri:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 193723.

The General Land Office (the "GLO") received a request for information regarding surplus land owned by the Texas Department of Criminal Justice (the "TDCJ") in Fort Bend, Brazoria, and other counties contiguous to Harris County. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 11.084 of the Natural Resources Code reads in part as follows:

- (a) Information relating to the location, or purchase price, or sale price of real property purchased or sold by or for the School Land Board, Veterans' Land Board, land office, or commissioner under authority granted by this code is confidential and exempt from disclosure under Chapter 552, Government Code, until a deed for the property is executed. Information that is confidential and exempted from disclosure under this subsection includes an appraisal, completed report, evaluation, investigation... or any report prepared in anticipation of purchasing or selling real property.

Nat. Res. Code § 11.084. You state that under section 31.159 of the Natural Resources Code, the GLO's School Land Board has authority to purchase state property identified as underused or underutilized if the legislature authorizes the sale. You further state that under section 31.0671 of the Natural Resources Code as amended, only the Governor has to approve the real estate transaction with the School Land Board. *See* Nat. Res. Code § 31.0671. In this case, you inform us that the Governor has approved the sale of the TDCJ land that falls within the purview of this request and the School Land Board has exercised its first option to purchase this property. You further represent that the "sale is not yet complete." Upon review, we find that the requested information consists of appraisals conducted for the purpose of determining the purchase or sale price of the property under section 11.084 of the Natural Resources Code. Accordingly, you must withhold the requested information pursuant to section 552.101 of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Debbie K. Lee  
Assistant Attorney General  
Open Records Division

DKL/seg

Ref: ID# 193723

Enc. Submitted documents

c: Ms. Jennifer Dawson  
Houston Business Journal  
1233 West Loop South, Suite 1300  
Houston, Texas 77027  
(w/o enclosures)