



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 10, 2004

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

OR2004-4759

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# 203192.

The General Land Office (the "land office") received a request for records relating to the Permanent School Fund during a specified time period. You state that some information will be released but claim that the submitted information is excepted from disclosure under sections 552.101 and 552.105 of the Government Code. You also claim that release of a portion of the submitted information may implicate the proprietary interests of a third party under sections 552.110 and 552.131 of the Government Code, although you take no position as to whether the information is so excepted. You state, and provide documentation showing, that you notified the interested third party of the request and of its right to submit arguments to this office as to why the information should not be released. *See Gov't Code* § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Public Information Act in certain circumstances). We have considered the exceptions 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" and encompasses information made confidential by other statutes. Section 11.086 of the Natural Resources Code provides in relevant part:

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 conducted for the purpose of locating or determining the purchase or sale price of the property, or any report prepared in anticipation of purchasing or selling real property.

Nat. Res. Code § 11.086(a). You state that the submitted information relates to the location and the purchase or sale price of real property purchased or sold by the School Land Board, land office, or commissioner and indicate that such transactions are under authority granted by the Natural Resources Code. You also inform us that the real estate transactions at issue have not been finalized. Based on your representations and our review of the information at issue, we find that the submitted information is confidential under section 11.086 of the Natural Resources Code. Accordingly, the land office must withhold the submitted information pursuant to section 552.101 of the Government Code.<sup>1</sup>

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

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<sup>1</sup>As we are able to make this determination, we do not reach your remaining arguments.

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,



Amy D. Peterson  
Assistant Attorney General  
Open Records Division

ADP/sdk

Ref: ID# 203192

Enc. Submitted documents

c: Mr. Jay Root  
Fort Worth Star-Telegram  
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(w/o enclosures)

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