



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 29, 2009

Ms. Lisa D. Mares  
Taylor Olson Adkins Sralla Elam L.L.P.  
6000 Western Place Suite 200  
I-30 at Bryant-Irvin Road  
Fort Worth, Texas 76107-4654

OR2009-10496

Dear Ms. Mares:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 350531.

The City of Haltom City (the "city"), which you represent, received a request for two categories of information relating to real estate acquisition. You claim that the requested information is excepted from disclosure under section 552.105 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.<sup>1</sup>

Initially, we address your representations with regard to the responsiveness of the information submitted as Exhibit B-1. You state that the city is unable to determine whether Exhibit B-1 is responsive to the present request for information. Nevertheless, you ask this office to determine whether Exhibit B-1 may be withheld from the requestor. We note that a governmental body must make a good-faith effort to relate a request to responsive information that is within the governmental body's possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). Thus, because you have submitted Exhibit B-1 in requesting this ruling, we will determine whether the information in question is excepted from disclosure.

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<sup>1</sup>This letter ruling assumes that the submitted representative samples of information are truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the city to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

Section 552.105 of the Government Code 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.

Gov't Code § 552.105. Section 552.105 is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. *See* Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982). Information pertaining to such negotiations that is excepted from disclosure under section 552.105 may be withheld so long as the transaction relating to the negotiations is not complete. *See* ORD 310. Moreover, this office also has concluded that information about specific parcels of land obtained in advance of other parcels to be acquired for the same project could be withheld where release of the information would harm the governmental body's negotiating position with respect to the remaining parcels. *See* ORD 564 at 2. Under section 552.105, 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.'" ORD 357 at 3 (quoting Open Records Decision No. 222 (1979)). The question of whether specific information, if publicly released, would impair a governmental body's planning and negotiating position in regard to particular transactions is a question of fact. Thus, this office will accept a governmental body's good-faith determination in this regard, unless the contrary is clearly shown as a matter of law. *See* ORD 564.

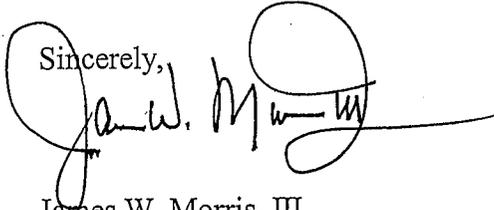
You state that the city has made a good-faith determination that Exhibits B-1, B-2, and B-3 are related to the location and valuation of real property that the city either has recently acquired or intends to acquire. You represent to this office that release of the information at issue would damage the city's negotiating position with respect to acquisitions of property. You state that although the related public works project has been announced, the city is still in the process of negotiating the purchase price of some properties and finalizing other transactions in which the price has been negotiated. You also state that the release of information regarding finalized transactions would aid other landowners in determining how the city values their property. Based on your representations and our review of the information at issue, we conclude that the city may withhold the submitted information under section 552.105 of the Government Code.

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free,

at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/cc

Ref: ID# 350531

Enc: Submitted documents

c: Requestor  
(w/o enclosures)