



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 7, 2012

Ms. Zeena Angadicheril
Office of the General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701

OR2012-01876

Dear Ms. Angadicheril:

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# 444680 (OGC No. 140892).

The University of Texas at Austin (the "university") received a request for a specified contract and any written value appraisals for the related property.¹ You claim the submitted information is excepted from disclosure pursuant to sections 552.101 and 552.105 of the Government Code. You also state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified Integra Realty Resources; North Dallas Petroleum, L.P.; ORI, Inc.; and Paul Hornsby & Company of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code* § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See Gov't Code* § 552.304 (interested party may submit written comments regarding availability of requested information).

¹You state, and provide documentation showing, the university received clarification of the request. *See Gov't Code* § 552.222(b) (providing if request for information is unclear, governmental body may ask requestor to clarify the request).

Initially, we note the submitted information is subject to section 552.022 of the Government Code, which provides, in pertinent part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108; [and]

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Id. § 552.022(a)(1), (3). The submitted information contains completed appraisal reports that fall within the purview of section 552.022(a)(1), and a contract that falls within the purview of section 552.022(a)(3). The university may withhold the information subject to section 552.022(a)(1) only if it is made confidential under the Act or other law or is excepted from disclosure under section 552.108 of the Government Code. *Id.* § 552.022(a)(1). The submitted contract may only be withheld if expressly confidential under the Act or other law. *See id.* § 552.022(a)(3). You claim the submitted information is excepted from disclosure under section 552.105 of the Government Code. However, section 552.105 is a discretionary exception that protects a governmental body's interests and, does not make information confidential under the Act for purposes of section 552.022(a)(3). *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 564 (1990) (statutory predecessor to section 552.105 subject to waiver). Therefore, the university may not withhold the submitted information under section 552.105 of the Government Code. However, because section 552.101 of the Government Code protects information made confidential by law, we will address whether the submitted information may be withheld under this section.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 51.951 of the Education Code. Section 51.951 provides in part:

(a) Information related to the location, purchase price, or sale price of real property purchased or sold by or for an institution of higher education, as defined by Section 61.003 [of the Education 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.

Educ. Code § 51.951. You state the university is an institution of higher education under section 61.003 of the Education Code. You state the information at issue relates to a piece of property being acquired for the benefit of the university and contains “evaluations and analysis conducted in anticipation of acquiring the property.” You explain the transaction remains pending and the deed has not yet been executed.² Based on your representations and our review, we agree the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.951 of the Education 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, 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, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

²We note the requestor states he “seeks the information requested only after the deed to the property is executed.” We note the Act does not require a governmental body to comply with a standing request to provide information on a periodic basis. *See* Attorney General Opinion JM-48 at 2 (1983); *see also* Open Records Decision Nos. 476 at 1 (1987), 465 at 1 (1987).

Ref: ID# 444680

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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