



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 26, 2012

Ms. Ashley Allen
Legal Services Division
Texas General Land Office
P.O. Box 12873
Austin, Texas 78711-2873

OR2012-09850

Dear Ms. Allen:

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# 457198.

The Texas General Land Office (the "GLO") received two requests from different requestors for a specified settlement agreement. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state release of this information may implicate the proprietary interests of Cemex Construction Materials South, LLC ("Cemex"). Thus, pursuant to section 552.305 of the Government Code, you state you notified Cemex of the request and of its right to submit arguments to this office as to why the submitted information should not be released. Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining 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 the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from one of the requestors. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, one of the requestors notes section 552.022(a) of the Government Code is applicable to the submitted information, which provides in relevant part the following:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(18) a settlement agreement to which a governmental body is a party.

Id. § 552.022(a)(18). The submitted information is a settlement agreement that is subject to section 552.022(a)(18) of the Government Code. However, because section 552.101 of the Government Code makes information confidential under the Act, we will consider the GLO's arguments 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." *Id.* § 552.101. This section encompasses information made confidential by other statutes. The GLO raises section 552.101 in conjunction with section 11.086(a) of the Natural Resources Code. Section 11.086(a) provides in relevant part as follows:

Information relating to the development, location, purchase price, or sale price of real property developed, purchased, or sold by or for the School Land Board, Veterans' Land Board, land office, or commissioner under authority granted by this code, including a contract provision related to the development, purchase, or sale of the property, is confidential and exempt from disclosure under [the Act], until all deeds for the property that are applicable to the transaction or series of related transactions are executed and until all substantive performance or executory requirements of applicable contracts have been satisfied. Information that is confidential and exempted from disclosure under this subsection includes an appraisal, completed report, evaluation, or investigation conducted for the purpose of locating or determining the purchase or sale price of the property, or any report prepared in anticipation of developing, purchasing, or selling real property.

Nat. Res. Code § 11.086(a). You state that the submitted information relates to the development, location, purchase price, or sale price of real property developed, purchased, or sold by or for the School Land Board, the GLO, or commissioner under authority granted by the Natural Resources Code. You also inform us that the information at issue is related to real estate transactions that 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 and must be withheld pursuant to section 552.101 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, 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,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', with a large, stylized flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/som

Ref: ID# 457198

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: James D. Bradbury
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Austin, Texas 78759
(w/o enclosures)