



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 22, 2013

Mr. Ray Rodriguez  
Assistant City Attorney  
Office of the City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2013-04756

Dear Mr. Rodriguez:

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# 482244 (COSA File No. W012422-010313).

The City of San Antonio (the "city") received a request for specified information pertaining to the city and H-E-B Grocery Company, L.P. You inform us some of the requested information has been or will be released to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.105, 552.106, and 552.131 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

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. We note this provision is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. *See Open Records*

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<sup>1</sup>Although you also raise sections 552.107 and 552.111 of the Government Code as exceptions to disclosure of the submitted information, you have provided no arguments regarding the applicability of these sections to this information. Therefore, we assume you no longer assert sections 552.107 and 552.111. *See Gov't Code §§ 552.301, .302.*

Decision Nos. 564 (1990), 357 (1982), 310 (1982). Information that is excepted from disclosure under section 552.105 that pertains to such negotiations may be excepted from disclosure so long as the transaction relating to that information is not complete. See ORD 310. 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 with regard to particular transactions is a question of fact. Accordingly, 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 the information you have marked "relate[s] to the ongoing negotiations concerning the location of real property which will be used for a public purpose and/or concern[s] the appraisals of real or personal property for a public purpose prior to the award of final contracts for the property." You assert the city has made a good-faith determination that release of this information would impair or tend to impair the city's planning and negotiating position in regard to the transactions in question. Based on your representations and our review, we conclude the city may withhold the information you have marked under section 552.105 of the Government Code.<sup>2</sup> As no further exceptions to disclosure are raised for the remaining information, the city must release it.

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, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/bhf

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)