



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 15, 2015

Ms. Camila W. Kunau
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2015-19255

Dear Ms. Kunau:

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# 579294 (COSA File# W087624).

The City of San Antonio (the "city") received a request for specified correspondence between two named parties and any correspondence related to the use of a specified building. You state you will release some information with redactions pursuant to section 552.136(c) of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.105 and 552.131 of the Government Code. You also state you have notified the Monte Vista Historical Association (the "association") of the request. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

Section 552.105 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.

Id. § 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 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. This office has held that section 552.105 applies to leases as well as purchases of real estate. *See* Open Records Decision No. 348 (1982). 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." Open Records Decision Nos. 357 at 3, 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 explain the association seeks to enter into an agreement with the city to lease office space from the city's Landa Branch Library. You also explain the city sought a proposal from the association to identify the association's planned use of the office space and grounds of the Landa Branch Library. You further state negotiations have not been completed. You made a good-faith determination that release of this information would impair the city's position in regard to the transaction in question. Based on your representations and our review, we conclude the city may withhold the submitted information under section 552.105 of the Government Code.²

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/dls

Ref: ID# 579294

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Ernest Parker
President
Monte Vista Historical Association Board of Directors
P.O. Box 12386
San Antonio, Texas 78212
(w/o enclosures)