



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 28, 2015

Mr. Stephen Wood
Staff Counsel
Uptown Houston Development Authority
1980 Post Oak Boulevard
Houston, Texas 77056

OR2015-22667

Dear Mr. Wood:

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# 584936.

The Harris County Improvement District No. 1 and Uptown Houston Development Authority (collectively, the "authority") received a request for a specified appraisal and contract.¹ You claim the submitted information is excepted from disclosure under section 552.105 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note portions of the submitted information are subject to section 552.022 of the Government Code. This section provides, in pertinent part:

- (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are

¹You explain the Harris County Improvement District No. 1, a special district created by the legislature pursuant to section 3818.002 of the Special Districts Code to improve transportation, and the Uptown Houston Development Authority, a local non-profit government corporation formed by the City of Houston pursuant to chapter 431 of the Transportation Code for the development of the Uptown area, are working together on a project to improve a particular road.

public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

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

Gov't Code § 552.022(a)(3). The submitted information contains a contract subject to section 552.022(a)(3), which the authority must release unless it is made confidential under the Act or other law. *See id.* You seek to withhold the information subject to section 552.022(a)(3) under section 552.105 of the Government Code. However, section 552.105 is a discretionary exception and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 564 (1990) (statutory predecessor to section 552.105 subject to waiver). Thus, the information subject to section 552.022(a)(3) may not be withheld under 552.105 of the Government Code. However, we will address the applicability of section 552.105 to the remaining information, which is not subject to section 552.022.

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. But the protection offered by section 552.105 is not limited solely to transactions not yet finalized. This office has concluded that information about specific parcels of land obtained in advance of other parcels to be acquired for the same project may 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. 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.

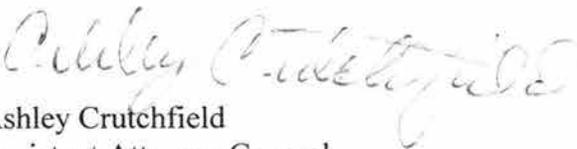
You explain the authority seeks to enter into agreements with local landowners for the acquisition of property in order to improve a public road. You also explain the authority procured appraisals to assess the value of the property interests being acquired. You state the release of information pertaining to the appraisal of a parcel acquired in advance of other parcels would harm the authority's bargaining position. You further state negotiations with local landowners for the remaining parcels have begun, but have not yet been completed. You also assert the authority made a good-faith determination that release of this information would impair the authority's position in regard to the transaction in question. Based on your representations and our review, we conclude the authority may withhold the remaining information under section 552.105 of the Government Code.

In summary, the authority must release the contract under section 552.022(a)(3). However, the authority may withhold the remaining 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.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 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# 584936

Enc. Submitted documents

c: Requestor
(w/o enclosures)