



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 4, 2015

Ms. Elaine Nicholson
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2015-25347

Dear Ms. Nicholson:

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# 589520.

The City of Austin (the "city") received a request for the five most recent purchase prices of homes purchased by the city in the Onion Creek area, as well as the amount of any additional any other relocation additional funds paid out as part of those purchases. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.104 of the Government Code. 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 (providing that interested party may submit written comments regarding why information should or should not be released).

Initially, we note the requestor only seeks the submitted purchase prices of the specified homes and the submitted amounts of any additional relocation funds. The remaining submitted information is not responsive, this ruling does not address the public availability of the non-responsive information, and the city need not release it in response to this request.

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 exception encompasses information other statutes make confidential. In addition, a federal regulation enacted pursuant to statutory authority can provide statutory

confidentiality for purposes of section 552.101 of the Act. *See* Open Records Decision No. 599 at 4 (1992). You raise section 552.101 in conjunction with part 24 of title 49 of the Code of Federal Regulations, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and pertains to relocation assistance and real property acquisition for federal and federally-assisted programs. Section 24.9 of title 49 of the Code of Federal Regulations states, in part:

(a) Records. The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under this part, or in accordance with the applicable regulations of the Federal funding Agency, whichever is later.

(b) Confidentiality of records. Records maintained by an Agency in accordance with this part are confidential regarding their use as public information, unless applicable law provides otherwise.

49 C.F.R. § 24.9(a)-(b). You assert the city is an “agency” as understood by this section. “Agency” means a federal agency, state, state agency, or a person that acquires real property or displaces a person from property. *See id.* § 24.2(a)(1). “State Agency” means any department, agency or instrumentality of a state or of a political subdivision of a state, and any person who has the authority to acquire property by eminent domain under state law. *See id.* § 24.2(a)(1)(iv). You state the responsive information consists of acquisition and displacement records maintained by the city as part of the acquisition and relocation policy for the properties located in the Onion Creek United States Army Corps of Engineers Buyout Project area. You inform us the city is required “to maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with part 24.” You further state the responsive information is maintained by the city in accordance with part 24 of title 49 of the Code of Federal Regulations. Based upon your representations and our review, we agree the responsive information is confidential under section 24.9(b) of title 49 of the Code of Federal Regulations and must be withheld under section 552.101 of the Government Code.¹

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.

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', followed by a horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

Ref: ID# 589520

Enc. Submitted documents

c: Requestor
(w/o enclosures)