



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 3, 2016

Ms. Hadassah Schloss
Director, Open Government
Texas General Land Office
P.O. Box 12873
Austin, Texas 78711-2873

OR2016-05069

Dear Ms. Schloss:

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# 600959.

The Texas General Land Office (the "GLO") received a request for the appraisal and purchase agreement pertaining to a specified property. You state you do not have some information.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Johnson 1358 Investors, LLC and Johnson GP 1358, LLC, (collectively, "Johnson"). Accordingly, the GLO states, and provides documentation showing, it notified the third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (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

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

circumstances). We have received comments from Johnson. We have considered the submitted arguments and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses section 11.086(a) of the Natural Resources Code, which provides in part:

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, [the GLO], or commissioner [of the GLO] 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 the submitted information relates to the sale of a tract of land by the GLO, on behalf of the School Land Board for the benefit of the Permanent School Fund. You explain, in a series of related transactions, the GLO formed a limited partnership with Johnson and contributed the property at issue to the partnership. You inform us this was “the first step in a series of transactions that will continue for some time, as the [p]artnership sells and develops the properties.” Thus, you state the series of related transactions pertaining to this property are still ongoing. Based on these representations and our review, we agree the submitted information is confidential under section 11.086 of the Natural Resources Code, and the GLO must withhold the submitted information under section 552.101 of the Government Code on that basis.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/>

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

[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 that reads "Cole Hutchison". The signature is written in a cursive style with a large, stylized "C" and "H".

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/BHF

Ref: ID# 600959

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)