



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 8, 2016

Ms. Shreya Shah  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2016-13083

Dear Ms. Shah:

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# 615846 (ORR# W118841).

The City of San Antonio (the "city") received a request for documents submitted to the United States Interagency Council on Homelessness (the "council") "to confirm that [the city] has ended veteran homelessness." The city claims the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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. This section encompasses information protected by other statutes. Section 551.073 of the Open Meetings Act, chapter 551 of the Government Code, reads as follows:

A governmental body may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

*Id.* § 551.073. In addition, we note in Open Records Decision No. 259 (1980), this office determined certain information relating to a pledged monetary contribution to the City of Port Neches for the construction of a library was confidential under former section 551.073, reasoning that “[s]ince the [City of Port Neches] could at this time exclude the public from a meeting discussing the pledge, the city may . . . also decline to reveal the contents of the pledge agreement while negotiations are pending[.]” ORD 259 at 2.

The city states the submitted information consists of documents submitted to the council that pertain to federal confirmation that the city has achieved the goal of ending veteran homelessness. The city explains it is currently in a negotiating phase regarding the confirmation with the council. The city argues,

Given that federal confirmation is still pending, and given that the [c]ity has been advised that premature announcements or statements should not be made until confirmation has been granted, the [c]ity is concerned that release at this time to the requestor would have the detrimental effect on the [c]ity’s negotiations with the [council].

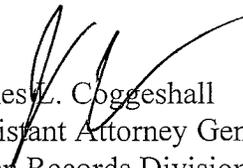
Thus, the city argues, in accordance with section 551.073 of the Government Code and Open Records Decision No. 259, the requested documents are confidential and may not be released until negotiations have concluded. However, section 551.073 does not make information expressly confidential. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express, and a confidentiality requirement will not be implied from the statutory structure), 478 at 2 (1987) (generally, statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to the public). In addition, in Open Records Decision No. 590 (1991), this office explicitly overruled the determination in Open Records Decision No. 259 that former section 551.073 makes information confidential for purposes of former section 552.101 of the Government Code. ORD 590 at 2 (“this office has implicitly overruled the reasoning of Open Records Decision No. 259 in decisions explaining that the Open Records and Open Meetings Acts are separate statutes to be applied without reference to each other”); *see* Open Records Decision Nos. 495 (1988), 491 at 4 (1988). Therefore, the submitted information is not confidential under section 551.073 of the Government Code, and the city may not withhold it under section 552.101 of the Government Code on that ground. Accordingly, the city must release the submitted information.

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,

  
James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/eb

Ref: ID# 615846

Enc. Submitted documents

c: Requestor  
(w/o enclosures)