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ATTORNEY GENERAL OF TEXAS

April 23, 2015

Ms. Mary Ann Powell
Counsel for the City of Spring Valley Village
Olson & Olson, LLP
Wortham Tower
2727 Allen Parkway, Suite 600
Houston, Texas 77019-2133

OR2015-07831

Dear Ms. Powell:

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# 561237 (Ref. No. SVV15-006).

The City of Spring Valley Village (the "city"), which you represent, received a request for information regarding the development of specified property since 2000. The city claims the requested information is excepted from disclosure under sections 552.104, 552.105, and 552.131 of the Government Code. The city also states it notified interested third parties of its receipt of the request for information. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the claimed exceptions and reviewed the submitted information.

Section 552.105 excepts from disclosure information relating to the following:

- (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. 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. A governmental body may withhold information that “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.

The city states the submitted information pertains to the location of property that the city intends to develop and reveals financial information pertaining to negotiations involving this property. Further, the city asserts it has made a good-faith determination the release of this information would harm its negotiations in this matter. Based on these representations, we conclude the city may withhold the submitted information under section 552.105 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.

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/cbz

¹As our ruling is dispositive, we do not address the city’s other arguments to withhold this information.

Ref: ID# 561237

Enc. Submitted documents

c: Requestor
(w/o enclosures)