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ATTORNEY GENERAL OF TEXAS

October 11, 2016

Mr. Byron L. Brown
Counsel for the City of Fulshear
Randle Law Office LTD LLP
820 Gessner, Suite 1570
Houston, Texas 77024-4494

OR2016-22697

Dear Mr. Brown:

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# 633263.

The City of Fulshear (the "city"), which you represent, received a request for communications between a named individual and city employees and council members for a specified period of time. The city states it will withhold information pursuant to Open Records Decision No. 684 (2009).¹ The city claims the requested information is excepted from disclosure under section 552.105 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the request for information because it was created after the city received the request. This ruling does not

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of seeking a decision from this office.

address the public availability of any information that is not responsive to the request, and the city is not required to release this information in response to this request.

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.

Gov't Code § 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 information at issue "relates to the location of real property for a public purpose prior to announcement of the project, or relates to appraisals or the purchase price of real property for a public purpose prior to the formal award of contracts for the property." We understand the city has made a good-faith determination that release of this information would impair or tend to impair its planning and negotiating position in regard to the transactions in question. Based on these representations and our review, we conclude the city may withhold the submitted responsive 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

Ref: ID# 633263

Enc. Submitted documents

c: Requestor
(w/o enclosures)