



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 22, 2016

Mr. Mark Wolfe
Executive Director
Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711-2276

OR2016-26023

Dear Mr. Wolfe:

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# 635201.

The Texas Historical Commission (the "commission") received a request for information relating to a specified site and to specific construction activity on or around the site. You state release of the submitted information may implicate the proprietary interests of TAS Inc. ("TAS"). Accordingly, you state, and provide documentation showing, you notified the third party of the request for information and of its 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 circumstances). We have received comments from TAS. You claim the submitted information is excepted from disclosure under section 552.101 of

the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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 191.004 of the Natural Resources Code provides:

- (a) Information specifying the location of any site or item declared to be a state archeological landmark under Subchapter D of this chapter is not public information.
- (b) Information specifying the location or nature of an activity covered by a permit or an application for a permit under this chapter is not public information.
- (c) Information specifying details of a survey to locate state archeological landmarks under this chapter is not public information.

Nat. Res. Code § 191.004. The submitted information consists of a draft report prepared by TAS for the commission that is related to an archeological permit for a particular project and maps of the specified site. Upon review, we find the submitted information qualifies as “information specifying the location of any site or item declared to be a state archeological landmark” and “information specifying details of a survey to locate state archeological landmarks” for the purposes of section 191.004. Therefore, we conclude the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 191.004 of the Natural Resources Code.²

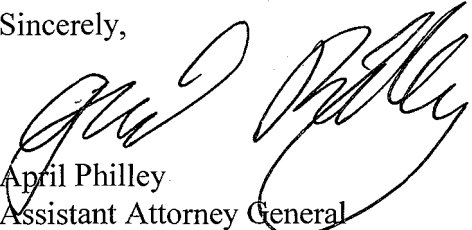
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

¹We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

²As our ruling is dispositive, we need not address the commission’s remaining arguments against disclosure of this information.

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,



April Philley
Assistant Attorney General
Open Records Division

AP/akg

Ref: ID# 635201

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)