



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 16, 2017

Mr. Phillip J. Smith  
Assistant District Attorney  
Civil Division  
County of Smith  
100 North Broadway, 4<sup>th</sup> Floor  
Tyler, Texas 75702

OR2017-10556

Dear Mr. Smith:

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# 658101.

Smith County (the "county") received a request for a specified appraisal and schematic drawing. The county claims the submitted information is excepted from disclosure under sections 552.104 and 552.105 of the Government Code. We have considered the exceptions the county claims and reviewed the submitted information.

Initially, we note the county has not submitted information pertaining to the schematic drawing as specified in the request. Thus, to the extent any additional responsive information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing*

*Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The county represents the information pertains to a competitive bidding situation. In addition, the county states “the sale of the [appraised building] is ongoing” and “the county has only just authorized negotiations with the highest-ranked broker-bidder[.]” Further, the county states “[t]he ongoing nature of the sale means that release of the [appraised building] appraisal, at this time, would negatively impact the county’s bargaining position with regard to potential buyers of the property.” After review of the information at issue and consideration of the arguments, we find the county has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the county may withhold the submitted information under section 552.104(a) of the Government Code.<sup>1</sup>

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](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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/som

Ref: ID# 658101

Enc: Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address the county’s remaining argument against disclosure.