



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 29, 2019

Ms. Julie A. Masek
Assistant General Counsel
Texas A&M University System
301 Tarrow Street, Sixth Floor
College Station, Texas 77840-7896

OR2019-24199

Dear Ms. Masek:

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# 783240 (Request C001273-060419).

Texas A&M University - Galveston (the "university") received a request for sixteen points of information pertaining to university dormitories. We understand the university released some information. The university claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We also received comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). We have considered the submitted arguments 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." *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 51.951 of the Education Code. Section 51.951 provides in part:

- (a) Information related to the location, purchase price, or sale price of real property purchased or sold by or for an institution of higher education, as defined by Section 61.003 [of the Education Code], is confidential and exempt from disclosure under Chapter 552, Government Code, until a deed for the property is executed. Information that is confidential and exempted from disclosure under this subsection includes an appraisal, completed report, evaluation, investigation conducted for the purpose of locating or determining the purchase or sale price of the property, or any report prepared in anticipation of purchasing or selling real property.

Educ. Code § 51.951. The university states it is an institution of higher education under section 61.003 of the Education Code. The university states the submitted information reveals the location of real property the university or a component of the university is in the process of purchasing. The university explains the purchase has not yet closed and no deed has been executed. We note the requestor asserts the university is no longer in the process of purchasing the real property at issue. Whether the university is in the process of purchasing the property is a question of fact. This office cannot resolve factual disputes in the opinion process. *See* Open Records Decision Nos. 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986). Where fact issues are not resolvable as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our decision, or upon those facts that are discernible from the documents submitted for our inspection. *See* ORD 552 at 4. Accordingly, we must accept the university's representation that it is in the process of purchasing the real property at issue. Based on the university's representations and our review, we agree the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.951 of the Education 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Patrick P. Mehaffy
Assistant Attorney General
Open Records Division

PPM/mo

Ref: ID# 783240

Enc. Submitted documents

c: Requestor
(w/o enclosures)