



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 1, 2020

Mr. Zachary Brown
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2020-15067

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# 831026 (PIR# C062398).

The City of Austin (the "city") received a request for the names of individuals participating in a certain program. 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 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." Gov't Code § 552.101. This exception encompasses information other statutes make confidential. In addition, a federal regulation enacted pursuant to statutory authority can provide statutory confidentiality for purposes of section 552.101 of the Act. *See* Open Records Decision No. 599 at 4 (1992). You raise section 552.101 in conjunction with part 24 of title 49 of the Code of Federal Regulations, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the "Uniform Act"), and pertains to relocation assistance and real property acquisition for federal and federally-assisted programs. Section 4633 of title 42 of the United States Code authorizes the Secretary of Transportation to prescribe regulations necessary to carry out the Uniform Act. *See* 42 U.S.C. § 4633. Section 24.9 of title 49 of the Code of Federal Regulations states, in part:

(a) Records. The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance

with this part. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under this part, or in accordance with the applicable regulations of the Federal funding Agency, whichever is later.

(b) Confidentiality of records. Records maintained by an Agency in accordance with this part are confidential regarding their use as public information, unless applicable law provides otherwise.

49 C.F.R. § 24.9(a)-(b). You assert the city is an “agency” as understood by this section. “Agency” means a federal agency, state, state agency, or a person that acquires real property or displaces a person from property. *See id.* § 24.2(a)(1). “State Agency” means any department, agency or instrumentality of a state or of apolitical subdivision of a state, and any person who has the authority to acquire property by eminent domain under state law. *See id.* § 24.2(a)(1)(iv). You state the submitted information “consists of acquisition and displacement records maintained by the [c]ity as part of the acquisition of property and relocation of individuals pursuant to the [c]ity’s efforts to house individuals experiencing homelessness.” You inform us the city is required to maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with part 24. Further, you state the submitted information is maintained by the city in accordance with part 24 of title 49 of the Code of Federal Regulations. Based upon your representations and our review, we agree the submitted information is confidential under section 24.9(b) of title 49 of the Code of Federal Regulations. Accordingly, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 4633 of title 42 of the United States Code and section 24.9(b) of title 49 of the Code of Federal Regulations.

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,

Alexandra C. Burks
Attorney
Open Records Division

ACB/eb

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Enc. Submitted documents

c: Requestor
(w/o enclosures)