



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 23, 2020

Ms. Esther Brickley
Records Management Officer
Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711-2276

OR2020-32219

Dear Ms. Brickley:

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# 859639.

The Texas Historical Commission (the "commission") received a request for information pertaining to a specified letter and a specified application. You state the commission released some of the requested information. Although the commission takes no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the interests of the Texas General Land Office (the "GLO"). Accordingly, you state, and provide documentation showing, the commission notified the GLO of the request and of its right to submit comments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have received comments from the GLO. We have considered the submitted arguments and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses section 191.004 of the Natural Resources Code, which provides the following:

- (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 GLO states the submitted information consists of “detail[s] of] specific archaeological areas surrounding the Alamo, as well as the specific nature of the activities covered by the permits.” The GLO asserts the submitted information reveals the locations of archaeological sites and the nature of an activity. The GLO indicates the archeological site is a state archeological landmark for purposes of chapter 191 of the Natural Resources Code. *See id.* § 191.092(a). The GLO also indicates the work is being performed pursuant to permits issued by the commission under chapter 191 of the Natural Resources Code. Upon review, we find the information at issue qualifies as “information specifying the location of any site or item declared to be a state archeological landmark” and “information specifying the location or nature of an activity covered by a permit or an application for a permit” for the purposes of section 191.004. Accordingly, 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.¹

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,

Matthew Taylor
Assistant Attorney General
Open Records Division

MT/be

Ref: ID# 859639

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)

¹ As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.