



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 18, 2022

Mr. Chuong Q. Phung  
Assistant City Attorney  
City of Grand Prairie  
300 West Main Street  
Grand Prairie, Texas 75050

OR2022-07950

Dear Mr. Phung:

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# 933442 (GCPA 21-0374).

The City of Grand Prairie (the "city") received a request for information related to several specified locations. You claim the submitted information is excepted from disclosure under section 552.113 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor.<sup>2</sup> *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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<sup>1</sup> We note we asked the city to provide additional information pursuant to section 552.303 of the Government Code. *See* Gov't Code § 552.303(c)-(d) (if attorney general determines information in addition to that required by section 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general not later than seventh calendar day after date of receipt of notice). We have received and considered the correspondence sent by the city pursuant to that request.

<sup>2</sup> Although the requestor argues the city failed to comply with section 552.301 of the Government Code in requesting a ruling, we note section 552.113 of the Government Code can provide a compelling reason to withhold information sufficient to overcome the presumption of openness caused by a failure to comply with section 552.301. *See* Gov't Code §§ 552.007, .302, .352. Accordingly, we will consider the city's argument under this exception.

The city raises section 552.113 of the Government Code for some of its information. Section 552.113 provides, in relevant part, as follows:

(a) Information is excepted from [required public disclosure under the Act] if it is:

...

(2) geological or geophysical information or data, including maps concerning wells, except information filed in connection with an application or proceeding before an agency[.]

*Id.* § 552.113(a)(2). In Open Records Decision No. 627 (1994), this office concluded section 552.113(a)(2) protects from public disclosure only (i) geological and geophysical information regarding the exploration or development of natural resources that is (ii) commercially valuable. ORD 627 at 3-4 (overruling rationale of Open Records Decision No. 504 (1988)). The decision explained the phrase “information regarding the exploration or development of natural resources” means “information indicating the presence or absence of natural resources in a particular location, as well as information indicating the extent of a particular deposit or accumulation.” *Id.* at 4 n.4. However, section 552.113(a)(2) does not except general geological information about a particular location that is unrelated to the “presence or absence of natural resources.” In order to be commercially valuable for purposes of Open Records Decision No. 627 and section 552.113, information must not be publicly available. *See* Open Records Decision No. 669 (2000). Upon review, we conclude the city has not demonstrated any of the submitted information is commercially valuable geological or geophysical information regarding the exploration of or development of natural resources. Accordingly, the city may not withhold any of the submitted information under section 552.113 of the Government Code.

We note some of the materials at issue may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. As no further exceptions to disclosure have been raised, the city must release the submitted information; however, any information that is subject to copyright may be released only in accordance with copyright law.

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,

Chase D. Young  
Assistant Attorney General  
Open Records Division

CDY/jxd

Ref: ID# 933442

c: Requestor