



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 6, 2022

Mr. Raphael Garza  
Counsel for the City of Mont Belvieu  
Randle Law Office  
820 Gessner, Suite 1570  
Houston, Texas 77024-4494

OR2022-13062

Dear Mr. Garza:

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# 943685 (Ref. No. 66146706).

The City of Mont Belvieu (the "city"), which you represent, received a request for all appraisals done by a specified entity for a stated time period. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.105 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you assert some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2021-35222 (2021). In that ruling, we determined with the exception of the information subject to section 552.022 of the Government Code, the city may withhold the information it indicated under section 552.103 of the Government Code. We have no indication there has been a change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the city may rely on Open Records Letter No. 2021-35222 as a previous determination and withhold or release the requested information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Section 552.105 of the Government Code excepts from disclosure information relating to “appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.” Gov’t Code § 552.105(2). Section 552.105 is designed to protect a governmental body’s planning and negotiating position with respect to particular transactions. Open Records Decision Nos. 564 at 2 (1990), 357 (1982), 310 (1982). Information that is excepted from disclosure under section 552.105 that pertains to such negotiations may be excepted from disclosure so long as the transaction relating to that information is not complete. *See* ORD 310. But the protection offered by section 552.105 is not limited solely to transactions not yet finalized. A governmental body may withhold information “which, if released, would impair or tend to impair [its] ‘planning and negotiating position in regard to particular transactions.’” ORD 357 at 3 (quoting Open Records Decision No. 222 (1979)). The question of whether specific information, if publicly released, would impair a governmental body’s planning and negotiating position with regard to particular transactions is a question of fact. Accordingly, this office will accept a governmental body’s good-faith determination in this regard, unless the contrary is clearly shown as a matter of law. *See* ORD 564. You assert the submitted information relates to property that the city is currently in the process of negotiating and acquiring. You inform us release of the submitted information will harm the city’s negotiation position. We understand the city has made a good-faith determination release would harm its negotiating position. Based on your representations and our review, we conclude the city may withhold the submitted information under section 552.105 of the Government Code.

In summary, the city may rely on Open Records Letter No. 2021-35222 as a previous determination and withhold or release the requested information in accordance with that ruling. The city may withhold the submitted information under section 552.105 of the Government 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,

Sarah E. Reese  
Attorney  
Open Records Division

SER/be

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)