



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 16, 2022

Ms. Leigh Ann Tognetti  
Assistant District Attorney  
Hidalgo County Criminal District Attorney's Office  
Hidalgo County Courthouse Annex III  
1000 East Cano Street  
Edinburg, Texas 78539

OR2022-24352

Dear Ms. Tognetti:

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# 965874 (Ref. No. 2022-094-DA.CO).

Hidalgo County (the "county") received a request for information pertaining to a specified project.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.105 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.105 of the Government Code excepts from disclosure information relating to "the location of real or personal property for a public purpose prior to public announcement of the project." Gov't Code § 552.105(1). Section 552.105 is designed to protect a governmental body's planning and negotiating position with respect to particular

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<sup>1</sup> You state the county sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup> We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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. A governmental body may withhold information that “if released, would impair or tend to impair [its] ‘planning and negotiating position in regard to particular transactions.’” Open Records Decision Nos. 357 at 3, 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. Thus, 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.

The county states the submitted information “provides a proposed right-of-way map that has not been finalized that shows before and after right-of-way lines for the acquisition of property to be purchased for a public purpose.” The county explains the release of this information “could affect negotiations for the purchase of properties by inflating the sales prices for land the [c]ounty seeks to acquire for [the specified project].” Based upon these representations and our review, we find the county has demonstrated the applicability of section 552.105 to the information at issue. Therefore, the county 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,

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/jm

Ref: ID# 965874

Enc. Submitted documents

c: Requestor  
(w/o enclosures)