



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 5, 2022

Mr. Adam Harden  
Counsel for the Texas Essential Housing Facility Corporation  
Cantu Harden, LLP  
1020 North East Loop 410, Suite 410  
San Antonio, Texas 78209

OR2022-37600

Dear Mr. Harden:

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# 988091.

The Texas Essential Housing Public Facility Corporation (the "corporation"), which you represent, received two requests from the same requestor for specified information including information pertaining to memorandums of understanding. You state you will release some information. You claim the submitted information is excepted from disclosure under sections 552.105 and 552.110 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304

Section 552.105 excepts from disclosure information relating to the following:

- (1) the location of real or personal property for a public purpose prior to public announcement of the project; or
- (2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

*Id.* § 552.105. This provision is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. *See* Open Records Decision Nos. 564 (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. Accordingly, this office will accept a governmental body’s good-faith determination, unless the contrary is clearly shown as a matter of law. *See* ORD 564.

The corporation states it has made a good-faith determination the submitted information pertains to the location of real property it intends to purchase and negotiations regarding the development of this property are ongoing. Further, the corporation asserts the release of this information would harm the corporation’s negotiations regarding the property at issue. Based on these representations, we conclude the corporation may withhold the submitted information under section 552.105 of the Government Code.<sup>1</sup>

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,

Anthony Crabtree  
Attorney  
Open Records Division

A1C/eb

Ref: ID# 988091

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.