



May 17, 2013

Hal Barker
9191 Garland Road
Dallas, Texas 75218
hbarker_2011@yahoo.com

Re: Request for an Open Records Decision

Dear Mr. Barker:

This letter responds to your open records request received by the city of Dallas on May 3, 2013 for information pertaining to "the areas contiguous to and including the proposed Texas Horse Park at Pemberton Hill." Some of the requested documents have been sent to the Attorney General for an open records decision regarding their release. A copy of the letter to the Attorney General is enclosed for your information. The Park and Recreation Department will provide you with the reproduction cost for the remaining requested information.

If you have any questions regarding this matter please contact me or Assistant City Attorney Heather Silver at 214-670-3519.

Sincerely,

A handwritten signature in black ink, appearing to read 'Warren M. S. Ernst'.

WARREN M. S. ERNST
Chief of the General Counsel Division

Attachments

c: Thomas P. Perkins, Jr., City Attorney
Heather Silver, Assistant City Attorney
Carolyn Brescia, Park and Recreation Department
Jeri Carter, Public Information Office



City of Dallas

May 17, 2013

Honorable Greg Abbott
Attorney General of Texas
300 W. 15th Street
Clements Building, 12th Floor
P.O. Box 12548
Austin, Texas 78711

Re: Request for an Open Records Decision

Dear Mr. Attorney General Abbott:

By email (Exhibit A) received by the city of Dallas ("city") on May 3, 2013, Hal Barker requested information pertaining to "the areas contiguous to and including the proposed Texas Horse Park at Pemberton Hill."

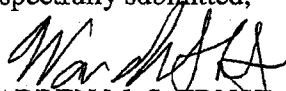
This office is responsible for representing the legal interests of the city. In our opinion, some of the requested information is excepted from required public disclosure under Section 552.111 of the Public Information Act, Chapter 552, Texas Government Code (the "Act"). Under Section 552.301 of the Act, this office now seeks your determination about whether this information is exempt from disclosure. Mr. Barker will be provided with the remaining requested information upon receipt of the reproduction cost.

Exhibit B consists of a draft report, which is a representative sample of the requested draft documents that we believe are exempt from disclosure under Section 552.111 of the Act which excepts from required disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." Section 552.111 of the Act incorporates the deliberative process privilege, which protects from disclosure intra-agency and interagency communications consisting of advice, opinion, or recommendations on policymaking matters of a governmental body. In Open Records Decision No. 631 (1995), your office determined that Section 552.111 of the Act may apply to information created for a governmental body by an outside consultant when the outside consultant is acting at the request of the governmental body and performing a task within the authority of the governmental body. Geo-Marine, Inc. performed services and prepared the draft report at the request of the city. A draft of a document that has been released or will be released in final form to the public is excepted from disclosure in its entirety under Section 552.111 of the Act because such a draft necessarily represents the advice, recommendations, or opinions of the drafter as to the form and content of the final documents. Open Records Decision No. 559 (1990). The draft report in Exhibit B will be released in final form to the public.

May 17, 2013
Honorable Greg Abbott
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If you have any questions regarding this matter please contact me or Assistant City Attorney Heather Silver at 214-670-3519.

Respectfully submitted,



WARREN M. S. ERNST
Chief of the General Counsel Division

Attachments

c: (with Exhibit A only)
Thomas P. Perkins, Jr., City Attorney
Heather Silver, Assistant City Attorney
Carolyn Brescia, Park and Recreation Department
Jeri Carter, Public Information Office

Hal Barker
9191 Garland Road
Dallas, Texas 75218
hbarker_2011@yahoo.com

“EXHIBIT A”

Brescia, Carolyn

From: Hal Barker [hbarker_2011@yahoo.com]
Sent: Friday, May 03, 2013 1:44 PM
To: OpenRecords; Brescia, Carolyn
Subject: Re: Texas Public Information Act Request

Greetings,

I sent a request earlier today.

I would like to amend the request with an additional Section.

Section C.

Apparently a core sampling/drilling truck was in the pasture are described in Section A below in possibly in December 2012 or January/February/March/April 2013.

1. Please provide me with copies of all core sample/drilling results, contract let to take the core samples, and all communications whether email or on paper relating to the core/drilling samples.
2. Please provide me with any physical surveys of the locations of drilling.
3. Please provide me with all permissions issued for any contractors or third party entities to conduct surveys or drilling on City property, and all other documents relating to the drilling or core sampling.
4. Please provide me with any documents relating to any construction proposed for the locations for which sampling was conducted.
5. Please provide me with any explanations in emails or paper of why the vehicle was taking samples or drilling in this area, and who now has possession of the results of the core/drilling results. I am not asking for creation of records, simply any records that exist on the date of this request.

Hal Barker
9191 Garland Road
Dallas, TX 5218

hbarker_2011@yahoo.com

From: Hal Barker <hbarker_2011@yahoo.com>
To: "openrecords@dallascityhall.com" <openrecords@dallascityhall.com>; "carolyn.brescia@dallascityhall.com" <carolyn.brescia@dallascityhall.com>
Sent: Friday, May 3, 2013 11:13 AM
Subject: Texas Public Information Act Request

Greetings,

This is a request under the Texas Public Information Act, or Open Records Act.

This request relates to the areas contiguous to and including the proposed Texas Horse Park at Pemberton Hill Road, Dallas, Texas.

Section A.

On Saturday, April 27, 2013, I observed a survey stake identified as "B-3" with a blue and white striped surveyor tape attached in the area due north of the high tension power line. The location was in a field west of the Bill and Zada Pemberton homestead and just south or southwest of the Big Spring. I can provide photographs of these stakes if necessary to identify the subject material.

1. I request all document relating to this "B-3" stake and any stakes labeled "Arena Corner" with orange or red tape, "Barn Corner" with orange or red tape, and any other stakes known to be placed in this area relating to the Texas Horse Park.
2. I request all emails, maps, surveys, representations reduced to writing or in digital format relating to the placement of these survey stakes and the apparent removal of some of these stakes, including who ordered the removal.
3. I request a copy of all Open Records requests made by anyone concerning these stakes, and the answers to those Open Records requests.
4. If the City of Dallas or any contractors had email or other communications relating to these stakes, please provide me with those records.
5. I request any map, records, representations, concepts, or emails relating to placement of any Texas Horse Park proposed or planned facilities in the area north of or under the high-tension power lines running generally west to east in the area of the Texas Horse Park. This is the area contiguous to the Big Spring.

Section B.

My understanding is a contract was let to GMI or others for the investigation of an American Indian site in the area just south of the west to east high tension power line on the northern perimeter of the proposed Texas Horse Park.

1. I request a copy of the contract with GMI for the investigation, and all email and written traffic with GMI and the City of Dallas relating to this contract, including any maps, surveys, or other documentation provided to GMI to facilitate the bidding process or contract process.
2. I request a copy of any conclusions, representations, and/or final presentations of any and all work by GMI on the American Indian site, including maps and photographs.
3. I request any documents provided to any outside engineers, bidders, or contractors, state agencies, federal agencies, or anyone else relating to any conclusions reached by the City of Dallas or GMI or anyone else, that would affect development of the American Indian site or the contiguous area for any reason.
4. I request a copy of any document, emails, or representations that release the American Indian site for use by the Texas Horse Park or an commercial or nonprofit entity.
5. I request a copy of any document, emails, or representations that mention anything about an American Indians site or Big Spring or "spring" in any documents relating to the Texas Horse Park.

Section C.

My understanding is a letter was sent by a member or members of the Park and Recreation Board relating to the City Council/Mayor/City Manager/City Staff, relating to funding or non-funding of the Texas Horse Park.

1. I request a copy of any letter or communication discussing any idea, thought, or opinion that funding should not be provided by the City of Dallas to the Texas Hours Park or any previously named entity that proposes to build a horse park in the Pemberton Hill area, including any emails, responses, or any supporting document relating to the non-funding of the project.

If the cost of this request exceed \$60, please let me know.

Hal Barker

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Dallas, TX 75218

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