
RE: [External] RE: Sale/Lease of the property located at 3017 W. 5th Street, Santa Ana, CA 92703 per the Surplus Land Act

From : Tily Shue <tily.shue@tpl.org>

Thu, Apr 29, 2021 04:51 PM

Subject : RE: [External] RE: Sale/Lease of the property located at 3017 W. 5th Street, Santa Ana, CA 92703 per the Surplus Land Act 2 attachments**To :** 'Omar Sandoval' <osandoval@wss-law.com>**Cc :** Alex Size <Alex.Size@tpl.org>, Robin Mark <Robin.Mark@tpl.org>, Greg Blodgett <greg1@ggcity.org>, Lisa Kim <lisak@ci.garden-grove.ca.us>, Grace Lee <gracel@ggcity.org>

Dear Omar,

You're right that The Trust for Public Land ("TPL") is not a public agency; we're a nonprofit public benefit corporation. As we have clarified before, TPL is seeking to acquire the subject property on behalf of the public agency that will be the ultimate steward of the land, as the public interest intention is to continue its use as public recreational open-space. The appraisal in question was obtained in that connection for the benefit of the prospective acquiring public agency; I say that the appraisal belongs to TPL in that TPL paid for the work-product.

Because the City of Garden Grove's proposed disposition of the subject property pursuant to the Surplus Land Act (the "SLA") is set up as a competitive process, with interested prospective buyers undergoing separate negotiations and submitting competitive proposals, the apparent objective of the competitive process is to "award" the sale/lease to the winning proposal ("winning" within the parameters of the SLA). It is our reasonable expectation that negotiations with any competing prospective purchaser are not conducted "in a fishbowl" in the full view of other competing prospective purchasers. It is also our reasonable expectation that, during the negotiation period before a "winning" proposal is selected and winning party identified, each prospective purchaser's document with material information furnished to the City in good-faith in furtherance of negotiations is not made public and thus available to other competitors.

Our experience in doing transactions with public agencies is consistent with this observation in the League of California Cities' publication of the California Public Records Act, i.e., "[w]hile the public has a strong interest in scrutinizing the process leading to selection of the winning proposer, the local agency's interest in keeping [competitive proposals/negotiations] confidential outweighs the public's interest in disclosure until negotiations with the winning proposer are complete." So, also the following conclusion: "If the winning proposer has access to the specific details of other competing [proposals/negotiations], then the local agency is greatly impaired to secure the best possible deal on its constituents' behalf." The leeway given to public agencies to exempt certain documents from the Public Records Act is in Government Code Section 6255. (See also Michaelis, Montanari & Johnson v. Sup Ct (2006) 38 Cal. 4th 1065, 1077).

If the City will not agree to the terms of confidentiality set forth in my letter, then please delete from the City's records, and your records, the appraisal report attached to my letter, and destroy all soft and hard copies, if any, that have made of the appraisal report since receipt via Robin Mark's email.

We will be in touch as soon as we have completed our review of the City's appraisal.

Sincerely,
Tily Shue

From: Omar Sandoval <osandoval@wss-law.com>**Sent:** Thursday, April 29, 2021 10:40 AM**To:** Tily Shue <tily.shue@tpl.org>