



**THE ATTORNEY GENERAL
OF TEXAS**

September 25, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Mr. Douglas G. Caroom
Bickerstaff, Heath & Smiley
Attorneys for Barton Springs-
Edwards Aquifer Conservation
District
98 San Jacinto Boulevard, Suite 1800
Austin, Texas 78701-4039

Dear Mr. Caroom:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 7587; this decision is OR89-308

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Barton Springs-Edwards Aquifer Conservation District received a request for copies of the district's tape recordings of public meetings. The district declined to release the portion of the tape containing discussions held in executive session. You seek confirmation that this information is protected from required public disclosure under Open Records Decision No. 495 (1988).

In Open Records Decision No. 495, this office determined that section 3(a)(1), which protects "information deemed confidential by law," including statute, protects certified agendas and tape recordings of executive sessions. Sections 2A(c) and 2A(e) of article 6252-17, V.T.C.S., the Texas Open Meetings Act, deem such information confidential within the meaning of section 3(a)(1). The district may

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therefore withhold tape recordings of executive sessions held under the Open Meetings Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-308.

Yours very truly,

Open Government Section
of the Opinion Committee 

Open Government Section
of the Opinion Committee
Prepared by Jennifer S. Riggs
Chief, Open Government Section

JSR/bc

Ref.: ID# 7587