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ATTORNEY GENERAL

Office of the Attorney General
State of Texas

March 22, 1991

Ms. Merri Schneider-Vogel
Attorney
Barcewell & Patterson
2900 South Tower Pennzoil Place
Houston, Texas 77002-2781

OR91-148

Dear Ms. Schneider-Vogel:

You seek clarification of informal letter ruling OR91-083. You first bring to our attention the fact that the ruling did not address the availability of a tape recording of the executive session. Such a tape recording is made confidential by section 2A(g) of the Open Meetings Act. Therefore, it may not be released.

The issue the ruling addressed was whether a school district could withhold documents presented to the board of trustees at an executive session. The ruling cited Open Records Decision No. 491 (1988) for the proposition that exceptions to the Open Meetings Act, article 6252-17, V.T.C.S., do not create exceptions to the Open Records Act, article 6252-17a, V.T.C.S. In other words, the fact that documents were considered in an executive session does not create an exception from required public disclosure of those documents. Open Records Decision No. 485 (1987) expressly concludes that a document is not confidential merely because it was discussed at an executive session of a governmental body.

In taking issue with that ruling, you describe Open Records Decision No. 491 as a case in which a "governmental agency sought to withhold from disclosure information presented at a meeting." That is not an accurate description of that decision. The decision involved minutes of a meeting, not documents presented at a meeting. That decision and previous decisions regarding minutes or transcripts of closed meetings are not dispositive of the issue you raise. The statement in Open Records Decision No. 491 that the Open Records Act and the Open Meetings Act are not to be read *in pari materia*, however, as well as the holding of Open Records Decision No. 485, makes clear that a governmental body cannot withhold

documents from public disclosure simply because the documents were presented at a closed meeting.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Sarah Woelk".

Sarah Woelk
Assistant Attorney General
Opinion Committee

SW/lcd

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