



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1993

Mr. Gilbert D. Douglas
Senior Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR93-718

Dear Mr. Douglas:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 20920.

The City of Houston (the "city") received an open records request for all legal opinions and related documents pertaining to "the effects of the proposed City of Houston Zoning Ordinance, particularly section 48-3420 thereof, on the outdoor advertising industry in Houston and the surrounding area." You submitted to this office as responsive to the request a total of five documents, including interoffice memoranda² and two pages of notes that an assistant city attorney prepared from a legal staff meeting, concerning the proposed ordinance; you contend that these documents come under the protection of, *inter alia*, former section 3(a)(6) of the Open Records Act.

Section 552.106 (former section 3(a)(6)) protects drafts and working papers involved in the preparation of proposed legislation. The purpose of the exception is to encourage frank discussion on policy matters between the subordinates or advisors of a

¹We note that the Seventy-Third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

²Although several of the memoranda discuss section 48-3316 of the proposed ordinance, you have explained to a member of our staff that these records are in fact responsive to the request and that section 48-3420 is now found at section 48-3316 in a revised version of the ordinance.

policy-making processes of a governmental body. Open Records Decision No. 460 (1987). Section 552.106 does not except purely factual material; rather, it excepts only policy judgments, recommendations, and proposals involved in the preparation of proposed legislation. *Id.*

We have reviewed the documents at issue and determined that these records, which were prepared by city staff and city council members, consist almost exclusively of opinions as to the proposed sign ordinance, and as such is precisely the type of information section 552.106 was intended to protect. We have marked the factual portions of the legal department memorandum dated June 11, 1993, that do not come under the protection of section 552.106³ and thus must be released; the city may withhold all of the remaining information submitted to this office pursuant to section 552.106.

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 contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/RWP/rho

Ref.: ID# 20920

Enclosures: Marked documents

cc: Mr. Richard L. Rothfelder
Kirkendall & Collins
700 Louisiana, Suite 4800
Houston, Texas 77002
(w/o enclosures)

³We note that the factual information also does not come under the protection of the other exceptions that you raise. See Open Records Decision No. 574 (1990) (former section 3(a)(7) protects only client confidences and attorney's legal advice); Open Records Decision No. 615 (1993) (former section 3(a)(11) does not protect factual information).