



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 27, 1995

Mr. Gary Keane
General Counsel
Dallas/Fort Worth International Airport
P.O. Box 619428
DFW Airport, Texas 75261-9428

OR95-1285

Dear Mr. Keane:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 25480.

The Dallas/Fort Worth International Airport Board (the "board") received an open records request for documents relating to the approval and operation of "dynamic signs" by American Airlines at the DFW International Airport. You state that you have released to the requestor most of the records at issue. You contend, however, that certain "personal notes" maintained by the board's Assistant Director of Planning and Engineering are not subject to the Open Records Act and that the board may withhold certain portions of other documents pursuant to section 552.111 of the Government Code. In the alternative, you argue that portions of the "personal notes" also come under the protection of section 552.111.

At the time this request was made, section 552.021(a) of the Government Code provided that information that is "collected, assembled, or maintained" by a governmental body "in connection with the transaction of official business" is public information.¹ It is clear from a review of the "personal notes" that they were created and

¹The Seventy-fourth Legislature amended several sections of the act. See Act of May 29, 1995, 74th Leg., R.S., ch. 1035, 1995 Tex. Sess. Law Serv. 5127. Among other things, the legislature moved the substance of section 552.021(a) to section 552.002(a). See *id.* § 2, 1995 Tex. Sess. Law Serv. at 5127. Although the amendments to sections 552.002 and 552.021 took effect September 1, 1995, see *id.* § 29, 1995 Tex. Sess. Law Serv. at 5142, they do not apply to a request for information received prior to the effective date. See *id.* § 26(a), 1995 Tex. Sess. Law Serv. at 5142.

are being maintained by a public employee in connection with her official duties. Consequently, these records cannot be deemed to be outside the scope of the Open Records Act. *See generally* Open Records Decision No. 450 (1986) at 3-4. Accordingly, the board must release these notes to the requestor, except to the extent that section 552.111 applies.

You have marked certain portions of the notes and other documents that you contend come under the protection of section 552.111. Section 552.111 excepts inter-agency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 (1993) at 5.

This office agrees that the information you have marked comes under the protection of section 552.111 because it directly relates to the board's policymaking functions. The board therefore may withhold those portions of the requested documents pursuant to section 552.111. All remaining portions of these documents, however, must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/RWP/rho

Ref.: ID# 25480

Enclosures: Submitted documents

cc: Mr. Howard Swindle
Assistant Managing Editor
The Dallas Morning News
P.O. Box 655265
Dallas, Texas 75265
(w/o enclosures)