



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 10, 1996

Ms. Tracy B. Calabrese
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR96-1110

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 40718.

The City of Houston (the "city") received a request for two items of information. You say the city is releasing to the requestor information that is responsive to request item one. However, the city asserts that pursuant to section 552.111 of the Government Code it may withhold from required public disclosure the information responsive to request item two, two draft reports from the firm of Lockwood, Andrews & Newnam, Inc.

Section 552.111 of the Government Code excepts from required public disclosure:

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.* Section 552.111 may apply to information created for an agency by outside consultants acting on the behalf of the agency in an official capacity. *See* Open Records Decision No. 631 (1995).

You inform us that the city requested Lockwood, Andrews, & Newnam, Inc. to prepare the reports at issue in order to develop a plan for extension of city water services outside the city's territorial jurisdiction. We believe the reports consist of advice, recommendation and opinions reflecting the city's policymaking process. Accordingly, the city may withhold the reports from the requestor based on section 552.111 of the Government Code.

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 40718

Enclosures: Submitted documents

cc: Mr. Ross J. Radcliffe
Johnson, Radcliffe & Petrov, L.L.P.
Paragon Center One
450 Gears Road, Suite 700
Houston, Texas 77067
(w/o enclosures)