



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 17, 1996

Ms. Kari A. Hernandez  
Assistant City Attorney  
The City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

OR96-1169

Dear Ms. Hernandez:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 40355.

The City of El Paso (the "city") received a request for various categories of information, including documents concerning a rewrite of the city's hazardous materials ordinance. You state that you have released most of the responsive documents, but that some of the documents at issue are excepted from disclosure pursuant to section 552.111.<sup>1</sup> Those documents have been submitted to this office for review.

Section 552.111 excepts from disclosure inter-agency or intra-agency communications consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body. *See Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ); Open Records Decision No. 615 (1993) at 5. Section 552.111 excepts from required public disclosure preliminary drafts of documents related to policymaking matters, since drafts represent the advice, opinion, and recommendation of the drafter as

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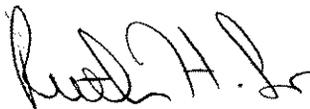
<sup>1</sup>You have also asserted that section 552.106 is applicable to the documents at issue. We note that the scope of sections 552.106 and 552.111 are sufficiently similar that this office generally employs a 552.111 analysis in dealing with section 552.106 arguments. *See Open Records Decision No. 429* (1985). Thus, section 552.106 would provide no greater protection from disclosure than section 552.111. *See Open Records Decision No. 460* (1987) at 3 (section 552.106, like section 552.111, protects advice, opinion, and recommendation concerning policy).

to the form and content of the final documents. *See* Open Records Decision No. 559 (1990). However, section 552.111 does not except from disclosure purely factual information.

We have reviewed the documents at issue, which are inter- or intra-agency documents related to the city's policymaking process. We agree that the draft documents and notes concerning the drafts may be excepted in their entirety under section 552.111, and have so marked the documents. We have marked other documents that are also protected from disclosure in their entirety under section 552.111. However, you also submitted to this office some documents that contain factual information that may not be withheld. We have marked the advice, opinion, and recommendation portions of these documents that may be withheld.<sup>2</sup> However, the remaining information 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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 40355

Enclosure: Marked documents

cc: Mr. Patrick McDonnell  
El Paso Herald-Post  
P. O. Box 20  
El Paso, Texas 79999  
(w/o enclosure)

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<sup>2</sup>We note that the city has the discretion to release these documents. *See* Open Records Decision No. 470 (1987) at 2-3.