



## Office of the Attorney General

State of Texas

September 17, 1996

DAN MORALES  
ATTORNEY GENERAL

Ms. Donna Garcia Davidson  
Assistant General Counsel  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

OR96-1709

Dear Ms. Davidson:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your requests were assigned IDs# 34821 and 101684.

The Office of the Governor received several requests for information concerning legislation. However, you contend that the records responsive to those requests are excepted from disclosure pursuant to sections 552.101, 552.106, 552.111, and 552.109 of the Government Code. You have submitted to this office for review representative samples of the records at issue.<sup>1</sup>

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. You submitted to this office for review a memorandum with handwritten notes that you contend may be withheld from disclosure in its entirety pursuant to section 552.111. We agree that the memorandum is advice, opinion, and recommendation reflecting policymaking processes. Thus, the memorandum may be withheld from disclosure under section 552.111.

Section 552.111 also 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 to the form and content of the final documents. *See Open*

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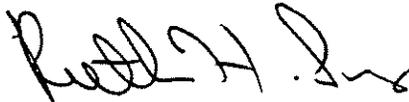
<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision No. 499 (1988), 497 (1988)*. Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Records Decision No. 559 (1990). You have submitted to this office several documents that are draft versions of final documents. We have reviewed the draft documents at issue and agree that these draft documents may be withheld from disclosure pursuant to section 552.111.

You also submitted to this office a memorandum that you contend is protected from disclosure under section 552.107(1), except for certain factual information. Section 552.107(1) excepts from disclosure communications that reveal client confidences or the attorney's legal opinion or advice. Open Records Decision Nos. 589 (1991) at 1, 574 (1990) at 3, 462 (1987) at 9-11. Section 552.107(1) does not except from disclosure the factual recounting of events or the documentation of calls made, meetings attended, and memos sent. Open Records Decision No. 574 (1990) at 5. Our review of the memorandum submitted to this office shows that, except for the factual information you have marked, the memorandum may be withheld from disclosure pursuant to section 552.107(1).<sup>2</sup>

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.: IDs# 34821, 101684

Enclosures: Marked documents

cc: Mr. Jason Stanford  
5123 Meadow Creek Drive  
Austin, Texas 78745-3045  
(w/o enclosures)

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<sup>2</sup>As the information at issue is excepted from disclosure pursuant to sections 552.111 and 552.107(1), we need not address your other arguments against disclosure.

Mr. George Kuempel  
Reporter, The Dallas Morning News  
Suite 930, 1005 Congress Avenue  
Austin, Texas 78701  
(w/o enclosures)