



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 4, 1996

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

OR96-1823

Dear Ms. Davidson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101599.

The Office of the Governor received a request for information relating to the Citizens' Committee on Property Tax Relief. You have submitted some of the requested documents to this office for review because you believe that they contain information that is excepted from disclosure pursuant to section 552.111 of the Government Code.¹

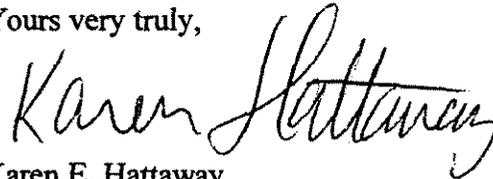
Section 552.111 excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." This exception applies not only to internal memoranda, but also to memoranda prepared by consultants of a governmental body. Open Records Decision Nos. 462 (1987) at 14, 298 (1981) at 2. In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. Section 552.111 does not, however, except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. Open Records Decision No. 615 (1993) at 4-5.

¹We assume that you have released to the requestor all responsive documents that you do not believe to contain protected information.

The information at issue is contained in three memoranda, one that was prepared by employees of the Office of the Governor and circulated within the Office of the Governor, and two that were prepared by an outside consultant for the Office of the Governor. Section 552.111 is applicable to all three memoranda. You have highlighted the portions of these memoranda that you believe constitute the opinions of the drafters. We agree that the highlighted portions of the memoranda represent the drafters' opinions as to the policymaking functions of the Office of the Governor. Accordingly, you may withhold the highlighted portions of the memoranda from disclosure pursuant to section 552.111 of the Government Code.

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 101599

Enclosures: Submitted documents

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