



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 31, 1996

Mr. Robert L. Dillard III
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR96-2003

Dear Mr. Dillard:

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# 101934.

The City of Lancaster (the "city"), which you represent, received an open records request for all interoffice memoranda from the city manager to city council members and the city attorney concerning "charter violations, the Police Chief and the reorganization of the Police Department." You state that you have released to the requestor all responsive documents except for portions of one memoranda, which you contend are excepted from required public disclosure by section 552.111 of the Government Code.

Section 552.111 of the Government Code permits a governmental body to withhold 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 only to "those internal communications consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body." Open Records Decision No. 615 (1993); *see also Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ). Its purpose is to permit free discussion among agency personnel as to policy issues; it does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. Open Records Decision No. 615 (1993).

The content of the information you have marked as being excepted from public disclosure under section 552.111 reflects a previously made decision by city administrators regarding staff reductions, not the process of making the decision itself. Except for a very small amount of the information, the information at issue represents the *result* of the city's decision-making process as to those staff reductions and is therefore a post-decisional, as opposed to a pre-decisional, document. As such, it is not protected by section 552.111. *See* Open Records Decision No. 137 (1976) (discussing pre-decisional and post-decisional documents). We have marked the portions of the

memorandum that the city may withhold pursuant to section 552.111; the remaining information must be released.

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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

RWP/SH/ch

Ref: ID# 101934

Enclosures: Marked documents

cc: Mr. Tim Speaks
4141 Portwood
Lancaster, Texas 75134
(w/o enclosures)