



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 18, 1997

Ms. Lan P. Nguyen  
Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR97-0876

Dear Ms. Nguyen:

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# 105733.

The City of Houston (the "city") received a request for information pertaining to three traffic projects. You state that the city will release some of the requested information to the requestor. You assert that a draft of a Neighborhood Traffic Project Plan and census data regarding "cut-through traffic" in Braeburn Valley/Maplewood West, Project #5068-96 are excepted from required public disclosure based on section 552.111 of the Government Code.

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 policy making 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.* The exception also protects preliminary drafts of a document and any comments or other notations on the drafts because they necessarily represent the advice, opinion, and recommendation of the drafter as to the form and content of the final document. *See* Open Records Decision No. 559 (1990). The protection of drafts under section 552.111 does not extend to the underlying factual data upon which the draft document is based. *See id* at 2.

You state that the project plan and census data are a “draft of a report in progress by the Department of Public Works and Engineering, Traffic Management and Maintenance Division relating to the issues of mitigating traffic cut-through in a subdivision. This information is not in final form as various city departments are still reviewing the data under different perspectives.”

We conclude that, if the Neighborhood Traffic Project Plan for Braeburn Valley/Maplewood West is a genuine draft of a document, that is, one that is subject to revision and not in final form, the city may withhold it from disclosure based on section 552.111. *See id.* However, the census data, which seems to be purely factual and severable, is not covered by section 552.111, and must be released.

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# 105733

Enclosures: Submitted documents

cc: Ms. Sue Cox  
7700 Creekbend #77  
Houston, Texas 77071  
(w/o enclosures)