



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 7, 1998

Ms. Betsy Elam
Attorney for the City of Mansfield
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.
500 Throckmorton Street
3400 Bank One Tower
Fort Worth, Texas 76102-3821

OR98-0060

Dear Ms. Elam:

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# 111489.

The City of Mansfield (the "city"), which your office represents, received a request for "all recordings, tapes, memos and other written or recorded information reflecting events that occurred during executive sessions and regular meetings of the City Council of the City of Mansfield during the months of February, March and April of 1997." You state that the city will give the requestor access to information pertaining to the open session portions of those meetings. However, you assert that the requestor seeks "not only the tapes of the open session portions of those meetings, but the tapes of the closed, executive session portions as well." You contend that the tape recordings of "the closed, executive session portions of the meetings to be protected information," pursuant to sections Chapters 551 and 552 of the Government Code. We have considered the exceptions and arguments you have raised.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 551.104 of the Government Code, a provision of the Open Meetings Act, makes the tape of a properly closed meeting confidential. *See* Gov't Code § 551.104(c) ("The certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3)"); *see also* § 551.146 (public disclosure of certified agenda of meeting that was lawfully closed to public is prohibited); Open Records Decision No. 495 (1988) (Open Meetings Act specifically makes confidential certified agendas or tapes of executive

sessions).¹ Accordingly, you must withhold the tapes of the closed executive sessions under section 552.101, as information deemed confidential by law.

As we resolve this matter under sections 552.101, we need not, at this time, address the other exceptions raised by the city. 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,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/alg

Ref.: ID# 111489

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¹However, records that were discussed in a closed meeting and records created in a closed meeting, other than a certified agenda or tape recording, are not made confidential by chapter 551 of the Government Code. Open Records Decision No. 605 (1992).