

January 22, 1999



OFFICE OF THE  
ATTORNEY GENERAL  
STATE OF TEXAS

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JOHN CORNYN  
Attorney General

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Mr. John Steiner  
Law Department  
City of Austin  
P.O. Box 1546  
Austin, Texas 78767-1546

OR99-0194

Dear Mr. Steiner

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121502.

The City of Austin (the "city") received a request for the following information:

- (1) agreements or contracts between the city and the Nature Conservancy for Prop. 2 conservation lands related services
- (2) publicly available documents concerning Prop. 2 land management
- (3) publicly available documents concerning potential resale of lands or interests in lands for conservation buyers or other purposes.

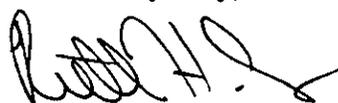
You seek to withhold from disclosure certain documents which are responsive to the request. You indicate that many of the documents you seek to withhold were previously determined by this office to be protected from disclosure under section 552.105 of the Government Code, in Open Records Letter No. 98-2357 (1998). As you indicate the city is still in the planning and negotiating stage concerning these particular transactions such that section 552.105 is still applicable, the documents we considered in ORL 98-2357 remain protected under section 552.105. We will not

further address the documents considered in ORL98-2357, but we will review the additional documents that you indicate are protected under section 552.105 and 552.111.

It is our understanding that the packet marked "work product, request item #2" and two packets marked "request item #3" were not addressed in the previous ruling. You assert that these documents are excepted from disclosure under section 552.111 of the Government Code as draft documents. 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 at 5 (1993). Section 552.111 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 Records Decision No. 559* (1990). We agree that these three packets of draft documents may be withheld from disclosure on the basis of section 552.111.<sup>1</sup> As these documents may be withheld under section 552.111, we need not address your section 552.105 argument about these documents.

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: ID# 121502

Enclosures: Submitted documents

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<sup>1</sup>It is our understanding these documents will be released to the public when they are in final form and that these final form documents have not yet been released.

cc: Mr. Bill Bunch  
S.O.S. Alliance  
221 East 9<sup>th</sup> Street, Suite 201  
Austin, Texas 78701  
(w/o enclosures)