



May 27, 1999

Mr. Phil Steven Kosub  
Souls & Wallace  
Frost Bank Tower  
100 West Houston Street, Suite 1500  
San Antonio, Texas 78205-1457

OR99-1471

Dear Mr. Kosub:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126371.

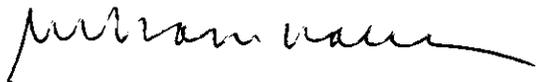
The City of Selma received a request for various information related to its May 1, 1999 city council election. You ask whether you must withhold, under section 552.101 of the Government Code, the records responsive to the portion of the request asking for copies of “[a]ll ballots to include those rejected at any point during the election.”

Section 552.101 requires withholding, *inter alia*, information made confidential by statute. Section 66.058(a) of the Election Code requires, with exceptions which do not appear to be applicable here, that precinct election records be preserved for 60 days after election day. Subsection (b) of the section requires that voted ballots be preserved in the locked ballot box or sealed envelope in which they are delivered to the custodian of election records and that, “[e]xcept as permitted by this code, a ballot box containing voted ballots or an envelope containing voted ballot stubs may not be opened during the preservation period.” *See also* Elec. Code §§ 213.007 (access to voted ballots for recounts), 221.008 (access to voted ballots for election contest), 1.013 (election records may be destroyed after preservation period unless election contest or criminal investigation or proceeding in connection with election is pending). Pursuant to section 66.058, voted ballots are not subject to disclosure under chapter 552 of the Government Code until sixty days after the May 1, 1999 election. At that point, you must provide access to or copies of the voted ballots if you receive a request for those records and have not yet destroyed them. *See Open Records Decision No. 505 (1988).*

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.

Sincerely,

A handwritten signature in black ink, appearing to read "William Walker", with a long horizontal flourish extending to the right.

William Walker  
Assistant Attorney General  
Open Records Division

WMW/eaf

Ref.: ID# 126371

cc: Mr. Jim Muse  
14706 Medusa  
Selma, Texas 78154