



June 4, 1999

Ms. Jennifer L. Lehmann
Escamilla & Poneck, Inc.
1200 South Texas building
603 Navarro Street
San Antonio, Texas 78205-1826

OR99-1552

Dear Ms. Lehmann:

You have asked whether certain information is subject to required public disclosure under the Texas Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 124822.

The San Antonio Independent School District (the "school district"), which you represent, received a request for "a copy of the tape recording of the Board Hearing on January 26, 1999 pertaining to Orlando Vera." You indicate that the responsive audiotape is a recording of a closed, executive session of the school district's board. You assert that the responsive audiotape is therefore confidential under chapter 551 of the Government Code.

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. An audiotape recording of a closed meeting is available for public inspection and copying only under a court order. Gov't Code § 551.104; Open Records Decision No. 495 at 4 (1988) (audiotape recordings of closed meetings are confidential unless court rules otherwise).¹ Furthermore, section 551.146 provides that it is a criminal offense to disclose to a member of the public an audiotape recording of a closed meeting. Thus, section 551.146, in conjunction with section 552.101, protects an audiotape recording of a properly closed meeting from public disclosure under the Open Meetings Act. We agree that the

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).

audiotape recording of the school district's closed executive session is confidential by law.² Accordingly, you must withhold the requested information under section 552.101 as information deemed confidential by law.

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 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

SH/nc

Ref: ID# 124822

cc: Mr. Tony Guajardo
Attorney at Law
2502 Buena Vista
San Antonio, Texas 787207

²We note that this office did not review the responsive audiotape recording since it was not submitted, nor does it have authority to do so. Open Records Decision No. 495 at 4 (1988) (Open Meetings Act provisions "remove certified agendas and tapes of executive sessions from review by the attorney general under the Public Information Act").