



May 2, 2000

Mr. Paul W. Hunn
Walsh, Anderson, Brown, Schulze & Aldridge, P.C.
P.O. Box 168046
Irving, Texas 75016-8046

OR2000-1706

Dear Mr. Hunn:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136509.

The Hawkins Independent School District (the "district") received a request for the tape recording of a presentation the requestor made before a closed meeting of the district's board of trustees on April 3, 2000. You seek to withhold the requested tape recording under section 552.101 of the Government Code.

Section 552.101 requires withholding information made confidential by statute. Section 552.103 of the Open Meetings Act, chapter 551 of the Government Code, provides for the keeping of a certified agenda or tape recording of closed meetings. Section 551.104(a) provides for the preservation of such certified agenda or tape recording for two years after the date of the meeting. Subsection (b) provides for the inspection or introduction of the certified agenda or tape in the context of litigation, and in subpart (3) permits disclosure to the public where a court grants such by way of legal or equitable relief. Subsection (c) of section 551.104 provides that the certified agenda or tape of a closed meeting "is available for public inspection or copying only under a court order issued under Subsection (b)(3)."

It is the position of this office that section 552.104 prohibits the disclosure of tapes of closed meetings except pursuant to a court order issued under the section. Accordingly, you must withhold the requested tape recording. Since we have resolved this request under section 551.104 of the Government Code, we need not address your other claims as to the confidentiality of the information at issue.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

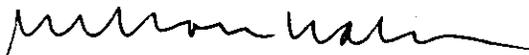
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID#136509

cc: Ms. Pavla V. Chandler
P.O. Box 906
Hawkins, Texas 75765
(w/o enclosures)