OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

July 16, 2001

Mr. Aric J. Garza
Escamilla & Poneck, Inc.
South Texas Building
603 Navarro Street, Suite 1200
San Antonio, Texas 78205

OR2001-3080

Dear Mr. Garza:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 151341.

The Laredo United Independent School District (the "district"), which you represent, received two requests for the minutes and one request for the agenda of a closed meeting held by district trustees. You claim that the requested information is excepted from disclosure under sections 552.101 and 551.104(c) of the Government Code. We have considered the exceptions you claim.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 551.104 of the Government Code, a provision of the Open Meetings Act, makes the agenda and tape recordings of a properly closed meeting confidential. An agenda or tape 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). Furthermore, section 551.146 provides that it is a criminal offense to disclose to a member of the public an agenda or tape recording of a closed meeting. In addition, minutes of a closed meeting are confidential. *See* Open Records Decision 60 (1974) (closed meeting minutes are confidential under the predecessor to section 551.104). Therefore, we find that the minutes of an executive session, as well as the certified agendas, must not be disclosed under sections 552.101 and 551.104 of the Government Code.

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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

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,

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/KLA/sdk

Ref: ID# 151341

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