



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 10, 2009

Ms. Deborah Jones
Staff Legal Counsel
City of Texarkana
P.O. Box 1967
Texarkana, Texas 75504

OR2009-01771

Dear Ms. Jones:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 334467.

The City of Texarkana (the "city") received a request for a copy of the dictations taken at a particular after action meeting. You claim the submitted information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.111 excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." Gov't Code § 552.111. Section 552.111 encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). In Open Records Decision No. 615, this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, and opinions reflecting the policymaking processes of the governmental body. *See City of Garland v. Dallas Morning News*, 22 S.W.3d 351, 364 (Tex. 2000); *see also Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152 (Tex. App.—Austin, 2001, no pet.). The purpose of section 552.111 is "to protect from public disclosure advice and opinions on policy matters and to encourage frank and open

discussion within the agency in connection with its decision-making processes.” *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.— San Antonio 1982, writ ref’d n.r.e.).

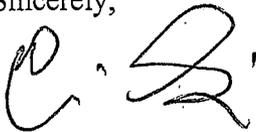
An agency’s policymaking functions do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. See ORD 615 at 5-6. Section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. See ORD 615 at 5. But, if factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make severance of the factual data impractical, the factual information also may be withheld under section 552.111. See Open Records Decision No. 313 at 3 (1982).

You explain the submitted information consists of notes taken by a city employee at an after action review meeting regarding the operation of a medical special needs shelter used for hurricane evacuees. You assert the purpose of the meeting was to evaluate the operation of the shelter, and the notes will be used to help the city develop future plans and policies in this area. After review of your arguments and the information, we agree the city may withhold the information we have marked under section 552.111 and the deliberative process privilege. However, we conclude the remaining information is factual information that does not consist of the city’s advice, opinion, and recommendation; therefore, the city may not withhold the remaining information under section 552.111 of the Government Code.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Emily Sitton
Assistant Attorney General
Open Records Division

EBS/eeg

Ref: ID# 334467

Enc. Submitted documents

c: Requestor
(w/o enclosures)
