



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 23, 2011

Mr. Matt Wade
General Counsel
Lubbock Power and Light
P.O. Box 2000
Lubbock, Texas 79401

OR2011-03976

Dear Mr. Wade:

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# 416587.

The City of Lubbock (the "city") received a request for a copy of records of vote recusals at Lubbock Power and Light Board ("the board") meetings during the past six months and any conflict of interest forms filed board members in the past year. You state you do not have information responsive to the requested conflict of interest forms.¹ You claim the requested vote recusal information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim.²

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

²We note that the city is not required to submit the certified agenda or audio recording of a closed meeting to this office for review. See Open Records Decision No. 495 at 4 (1988) (attorney general lacks authority to review certified agendas or tapes of executive sessions to determine whether a governmental body may withhold such information under statutory predecessor to Gov't Code § 552.101).

Code § 552.101. This section encompasses information protected by other statutes. Section 551.104(c) of the Government Code provides that “[t]he certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3).” *Id.* § 551.104(c). Thus, such information cannot be released to a member of the public in response to an open records request. *See* Open Records Decision No. 495 (1988). You inform us the information at issue consists of certified agendas of executive sessions of the board. Therefore, the city must withhold this information from the public pursuant to section 552.101 of the Government Code in conjunction with section 551.104(c) of the Government Code.³

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, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID#416587

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

³This office issued Open Record Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a certified agenda and tape of a closed meeting under section 552.101 in conjunction with section 551.104 of the Government Code, without the necessity of requesting an attorney general decision.