



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 6, 2012

Mr. Richard A. Illmer  
For Texas Southmost College  
Brown McCarroll, LLP  
2001 Ross Avenue, Suite 2000  
Dallas, Texas 75201-2995

OR2012-14141

Dear Mr. Illmer:

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# 464451.

Texas Southmost College (the "college"), which you represent, received a request for information pertaining to a specified real estate inquiry from the University of Texas System (the "system"). You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.105, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.111 of the Government Code excepts from disclosure "[a]n 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. This exception encompasses the deliberative process privilege. See *Open Records Decision No. 615 at 2* (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. See *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, no writ); *Open Records Decision No. 538 at 1-2* (1990).

In *Open Records Decision No. 615*, this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined section 552.111 excepts from disclosure only those internal communications that consist of

advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. *See* ORD 615 at 5. A governmental body's policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; *see also City of Garland v. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body's policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body's policy mission. *See* Open Records Decision No. 631 at 3 (1995).

You state the information you seek to withhold reflects the college's deliberations regarding how to establish an operationally independent institution, separate from the system. You explain the dissolution of the partnership between the college and the system is not complete, and the college is in the process of determining future college policies, including those involving any future sales of real estate. Thus, you state the information at issue consists of advice, opinions, and recommendations of the college pertaining to its policymaking functions. Based on your representations and our review of the information at issue, we find the college has demonstrated the information at issue consists of advice, opinions, or recommendations on the policymaking matters of the college. Accordingly, the college may withhold the information at issue under section 552.111 of the Government Code.<sup>1</sup>

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](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,



Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/akg

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

**Ref: ID# 464451**

**Enc. Submitted documents**

**c: Requestor  
(w/o enclosures)**