



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 5, 2014

Ms. Mary Ann Powell  
Counsel for the City of Piney Point Village  
Olson & Olson, LLP  
2727 Allen Parkway, Suite 600  
Houston, Texas 77019-2133

OR2014-20092

Dear Ms. Powell:

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# 542402 (City Ref. No. PPV14-001).

The City of Piney Point Village (the "city"), which you represent, received a request for information pertaining to specified citations. You state the city will release a portion of the information to the requestor. You claim the remaining requested 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 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, writ ref'd n.r.e.); 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*, 22 S.W.3d 351 (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).

Further, section 552.111 does not protect facts and written observations of facts and events severable from advice, opinions, and recommendations. *Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152 (Tex. App.—Austin 2001, no pet.); *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).

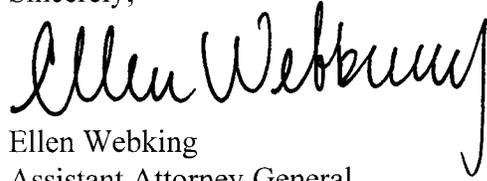
You seek to withhold the submitted information, which consists of e-mails pertaining to a specified complaint and ordinance violations, under section 552.111 of the Government Code. You explain the e-mails contain advice, opinion, and recommendations on policymaking matters concerning the city. Based on your representations and our review of the information at issue, we find the city has demonstrated a portion of the submitted information, which we have marked, consists of advice, opinion, or recommendations on the policymaking matters of the city. Thus, the city may withhold the marked information under section 552.111 of the Government Code. However, we find the remaining information is general administrative information, purely factual or written observations of facts, or does not pertain to policymaking. Thus, we find you have failed to show how the remaining information consists of internal communications containing advice, opinions, or recommendations on the policymaking matters of the city. Accordingly, the remaining information may not be withheld under section 552.111 of the Government Code. As you raise no further exceptions to disclosure, the remaining information must be released.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Ellen Webking". The signature is written in a cursive style with a large, sweeping "E" and a long, trailing "g".

Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/ac

Ref: ID#542402

Enc. Submitted documents

c: Requestor  
(w/o enclosures)