



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 26, 1995

Mr. Bruce Isaacks
Denton County Criminal District Attorney
P.O. Box 2344
Denton, Texas 76202

OR95-503

Dear Mr. Isaacks:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33815.

The Denton County Commissioners Court received a request for a copy of Denton County's memorandum of understanding with NASCAR speedway owner Burton Smith and the City of Fort Worth. You claim that the requested information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and have reviewed the document at issue.

Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Dep't of Pub. 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, opinions, and other material reflecting the policymaking processes of the governmental body. A governmental body's policymaking functions, however, 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. Open Records Decision No. 615 (1993) at 5-6; *see also* Open Records Decision No. 631 (1995) at 3 (policymaking functions include advice, recommendations, and opinions regarding administrative and personnel matters of broad scope that affect governmental body's policy mission). In addition, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* at 4-5.

Section 552.111 also excepts from required public disclosure a preliminary draft of a letter or document related to policymaking matters, since drafts represent the advice, opinion, and recommendation of the drafter as to the form and content of the final document. *Id.*; see also Open Records Decision No. 559 (1990). We have reviewed the draft document at issue and conclude that it relates to the policymaking processes of the governmental body. Therefore, the document may be withheld from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Government Section

SES/RHS/rho

Ref.: ID# 33815

Enclosure: Submitted document

cc: Ms. Leslie Hueholt
Denton Record-Chronicle
P.O. Box 369
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(w/o enclosure)