



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 28, 1995

Mr. Richard D. Monroe
Deputy General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Bldg.
125 E. 11th Street
Austin, Texas 78701-2483

OR95-1011

Dear Mr. Monroe:

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# 35185.

The Texas Department of Transportation (the "department") received a request for copies of responses to the "High Intensity Sheeting Concerns" questionnaire and a copy of a memorandum in which results of the questionnaires are discussed and recommendations made. You claim that the requested information is excepted from disclosure under section 552.111 of the Government Code. You have submitted samples of the requested information to this office for review. We have considered the exception you claimed and have reviewed the sample documents.

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 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, opinions, and other material reflecting the policymaking processes of the governmental body. An agency'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. 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. It appears that the requested documents relate to an administrative matter; that is, how certain products used in the letter cutting and weeding process are performing and how they affect the health of the department's employees. You claim that the department will develop a policy as to the use of the products based on the results of the questionnaires. However, how to use particular products does not relate to the department's policy mission. *See* Open Records Decision No. 631 (1995) at 3. Therefore, the department may not withhold the requested information from required 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 Records Division

SES/ch

Ref.: ID# 35185

Enclosures: Submitted documents

cc: Mr. John F. Wright
Stimsonite Corporation
7542 N. Natchez Avenue
Niles, Illinois 60714-3889
(w/o enclosures)