



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 13, 1997

Mr. Rusty Renfroe, CLA  
City Attorney's Office  
City of Longview  
P.O. Box 1952  
Longview, Texas 75606-1952

OR97-2278

Dear Mr. Renfroe:

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# 109999.

The City of Longview (the "city") received a request for the city library's "file" regarding the requestor. You claim that the requested information is excepted from disclosure under sections 552.101, 552.111, and 552.124 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.111 excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." This exception applies not only to a governmental body's internal memoranda, but also to memoranda prepared for a governmental body by its outside consultant. Open Records Decision Nos. 462 (1987) at 14, 298 (1981) at 2. 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. Section 552.111 does not generally except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. Open Records Decision No. 615 (1993) at 4-5. 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. The documents in this case relate to a routine administrative matter. Section 552.111, therefore, does not except these records from required public disclosure.

Section 552.124 excepts from required public disclosure records of a public library or library system that identify or serve to identify a person who requested, obtained, or used library material. Gov't Code § 552.124(a). However, where, as in the instant case, the requestor seeks such information about himself, section 552.124(a)(2) does not protect the requested information. *See also* Gov't Code § 552.023 (person has special right of access beyond the right of the general public to information held by governmental body that relates to the person). Thus, the city must release the requested information, unless it identifies a person described by section 552.124(a) other than the requestor, or the information is protected by another exception under chapter 552 of the Government Code. We have marked the type of information which must be withheld under section 552.124(a).

Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. Information may be withheld under section 552.101 in conjunction with the common-law right to privacy (1) if the information contains highly intimate or embarrassing facts about a person's private affairs such that release of the information would be highly objectionable to a reasonable person, and (2) if the information is of no legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court considered intimate and embarrassing information such as that relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683 After reviewing the submitted information, we conclude that portions of the documents are protected by the common-law right to privacy under section 552.101. *Cf. Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.--El Paso 1992, writ denied) (identities of victim and witnesses to alleged sexual harassment excepted from disclosure by common-law privacy doctrine). We have marked the types of information which the city must withhold from disclosure to the requestor under section 552.101 of the Government Code.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch  
Assistant Attorney General  
Open Records Division

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Ref.: ID# 109999

Enclosures: Submitted documents

cc: Mr. Daniel Presson  
206 Jewel Drive  
Longview, Texas 75602  
(w/o enclosures)

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