



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 12, 1998

Mr. Merrill E. Nunn  
City Attorney  
City of Amarillo  
P.O. Box 1971  
Amarillo, Texas 79105-1971

OR98-0429

Dear Mr. Nunn:

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# 112682.

The Amarillo-Potter Events Venue District (the "district"), which you represent, received a request for research conducted on behalf of the district concerning the expansion or construction of a special events center. You state that certain information will be released to the requestor. However, you claim that one of the requested documents, a survey, is excepted from disclosure under sections 552.101 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted document.

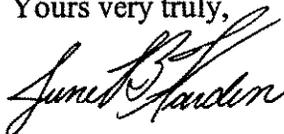
Initially, you assert that the survey is excepted from disclosure under section 552.111. Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined 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. After reviewing the submitted document, we have determined that the information is purely factual in nature. Consequently, the survey is not excepted from required public disclosure under section 552.111.

You also seek to withhold the survey under section 552.101. Section 552.101 exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 335.0725 of the Local Government Code provides that "[t]he books, records, and papers of the district relating to an approved venue project and the revenue used to finance the project are public information and subject to disclosure under Chapter 552, Government Code." An "approved venue project" is defined as a "sports and community venue project that has been approved under this chapter by the voters of a municipality or county." Local Gov't Code § 334.001.

You explain that the venue project at issue will not be submitted to the voters until January 17, 1998. You argue that since the legislature did not address documents relating to unapproved venue projects, the legislature intended to make such documents confidential. We disagree. To fall within section 552.101, a statute explicitly must require confidentiality; a confidentiality requirement will not be implied from the statutory structure. *See* Open Records Decision No. 478 (1987) at 2. In this instance, the statute does not expressly make confidential the papers relating to unapproved venue projects. Consequently, the survey is not protected by statutory law and may not be withheld under section 552.101. The district must release the survey to the requestor.

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,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/alg

Ref.: ID# 112682

Enclosures: Submitted documents

cc: Ms. Kerry Curry  
Amarillo Daily News  
P.O. Box 2091  
Amarillo, Texas 79166  
(w/o enclosures)