



March 31, 1999

Ms. Linda Cloud
Executive Director
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630

OR99-0880

Dear Ms. Cloud:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124035.

The Texas Lottery Commission (the "commission") received a request for information submitted to the commissioners concerning three agenda items at its February 1, 1999 public meeting. You seek to withhold portions of the requested information under section 552.111 of the Government Code.

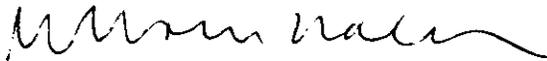
Section 552.111 excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 at 5 (1993). The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added).

Section 552.111 does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. Open Records Decision No. 615. If, however, the factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make separation of the factual data impractical, that information may be withheld. Open Records Decision No. 313 (1982). We have

examined the information at issue and conclude that you may withhold the marked portion of the document labeled Exhibit B under section 552.111.¹ However, we do not believe that the other submitted information for which you claim the protection of section 552.111 -- the identities of commission employees in your Exhibits D-1 and D-2 -- is the kind of information protected by section 552.111. See Open Records Decision No. 538 (1990). You must release the unmarked portion of Exhibit B, and Exhibits D-1 and D-2 in their entirety.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/eaf

Ref.: ID# 124035

Encl. Submitted documents

cc: Mr. Stephen Fenoglio
Attorney and Counselor at Law
3660 Stone Ridge Road, Suite B-102
Austin, Texas 78746-7759
(w/o enclosures)

¹We note that you say you will release any of the information for which you seek the protection of section 552.111 which you determine was made public at the meeting. To the extent that information in Exhibit B has already been made public, at the commission meeting or otherwise, we agree that it is not protected by section 552.111 and must be released.