



July 8, 1999

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

OR99-1902

Dear Mr. Nunn:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 125764.

The City of Amarillo (the "city") received a request for thirteen categories of documents relating to water rights. You object to three categories of the request. You indicate that the city previously provided the requestor with documents responsive to category 1 of the request. You ask whether the city must again provide the requestor with copies of those documents. You contend that the documents responsive to categories 2 and 6 of the request are excepted from disclosure pursuant to section 552.106 of the Government Code.

The fact that the requestor may have previously obtained the documents she is seeking does not relieve the city of its obligation to respond to the pending request. *See* Gov't Code §§ 552.201-.204. Of course, the city may, in accordance with the Public Information Act, charge the requestor for the cost of providing her with this information.¹

Section 552.106 excepts from disclosure "a draft or working paper involved in the preparation of proposed legislation." Section 552.106 ordinarily applies only to persons with a responsibility to prepare information and proposals for a legislative body. Open Records

¹We note that section 13 of Senate Bill 1851, which goes into effect on September 1, 1999, adds a new section 552.232 to the Public Information Act. S.B. 1851, 76th Leg., R.S. (1999). This new section addresses your concerns about responding to repetitious or redundant requests.

Decision No. 460 (1987). The purpose of section 552.106 is to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the members of the legislative body, and, therefore, it does not except from disclosure purely factual information. *Id.* at 2. However, a comparison or analysis of factual information prepared to support proposed legislation is within the ambit of section 552.106. *Id.* A proposed budget constitutes a recommendation by its very nature and may be withheld under section 552.106. *Id.* This office has also concluded that the drafts of municipal ordinances and resolutions which reflect policy judgments, recommendations, and proposals are excepted by section 552.106. Open Records Decision No. 248 (1980).

You inform us that the submitted documents are: 1) proposed ordinances and resolutions relating the sale of bonds; and 2) documents which give the city commission options to consider in a future ordinance which will set water rates. Having reviewed your arguments and the submitted documents, we conclude that section 552.106 is applicable to the documents. Therefore, the city may withhold the documents 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 regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 125764

Encl. Submitted documents

cc: Ms. April Maurer
Locke, Liddell & Sapp
2200 Ross Avenue, Suite 2200
Dallas, Texas 75201-6776
(w/o enclosures)