



November 1, 1999

Ms. Kristi DeCluitt
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR99-3081

Dear Ms. DeCluitt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130838.

You state that the City of College Station (the “city”) received several requests for the “audiotapes of an open meeting of the Zoning Board of Adjustments . . . held on October 20, 1999.” You claim that the audiotapes are excepted from disclosure under section 552.103 of the Government Code.

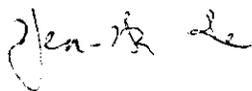
Section 551.022 of the Government Code expressly provides that the “minutes and tape recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body’s chief administrative officer or the officer’s designee.” The audiotapes at issue are of an open meeting, and therefore, must be made available to the requestors.

You state that although you are aware of section 551.022, you believe that *Cornyn v. City of Garland*, 994 S.W.2d 258 (Tex. App.--Austin 1999, n. pet. h.), allows the city to withhold the information under section 552.103 of the Government Code. In *City of Garland*, the court held that information falling under the categories of public information in section 552.022 of the Government Code are subject to the exceptions in the Public Information Act and may be withheld if one of the exceptions applies to the information. *City of Garland*, 994 S.W.2d at 264. However, this rationale does not apply when a statute expressly makes the information public and mandates release of the information. Moreover, since the court’s decision in *City of Garland*, the Seventy-sixth Legislature amended section 552.022 to expressly provide that the categories of information under section 552.022 “are public

information and not excepted from required disclosure under [the Public Information Act] unless they are expressly confidential under other law.” Act of May 25, 1999, 76th Leg., R.S., ch. 1319, § 5, 1999 Tex. Sess. Law Serv. 4500, 4501 (Vernon) (to be codified as an amendment to Gov’t Code § 552.022). Thus, the *City of Garland’s* holding concerning section 552.022 has been superseded by the amendment to section 552.022. The city must release the audiotapes promptly to the requestors.

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.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/ljp

Ref.: ID# 130838

Encl. Submitted audiotapes

cc: Ms. Norma Miller
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(w/o enclosures)

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