



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

May 9, 2003

Ms. Marigny A. Lanier
Maris & Lanier
10440 North Central Expressway, Suite 1450, LB 702
Dallas, Texas 75231

OR2003-3131

Dear Ms. Lanier:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 180757.

The City of Glen Rose (the "City"), which you represent, received a request for the "[a]genda, minutes, tape recordings, and notes made by the secretarial and clerical persons of the Glen Rose City Council [the "Council"] meetings held on [five specified dates during February 2003]." You assert the requested information is excepted from disclosure under section 552.103 of the Government Code. We have reviewed the information you submitted and we have considered the exception you claim.

Initially, we note the applicability of the Open Meetings Act, chapter 551 of the Government Code, to the requested information. Section 551.022 expressly provides that "[t]he 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." Gov't Code § 551.022. Section 551.041 requires a governmental body to give written notice of the date, hour, place, and subject of each meeting held by the governmental body. Gov't Code § 551.041. Additionally, section 551.043 states a governmental body must post such notice in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting. Gov't Code § 551.043. When a statute expressly makes information public and mandates its release, the information cannot be withheld from disclosure under one of the exceptions in Subchapter C of chapter 552 of the Government Code. *See* Open Records Decision No. 451

(1986) (specific statute that affirmatively requires release of information at issue prevails over litigation exception of the Act). In this instance, the requested agendas, minutes, and audiotapes constitute information made expressly public by the Open Meetings Act. *See* Gov't Code §§ 551.022, .041, .043. Therefore, the City must release the submitted agendas, minutes, and tapes of the open meetings to the requestor. *See* Gov't Code §§ 551.022, .043; *see also* Open Records Decision No. 221 (1979) (board minutes of school district cannot be excepted under section 3(a)(3), statutory predecessor to section 552.103, under any imaginable circumstances). Further, a city secretary's handwritten notes are part of the process by which a governmental body records its official minutes. Open Records Decision No. 225 at 3 (1979). The minutes are public in whatever form they exist. *Id.* at 4. Accordingly, the City also must release the submitted handwritten notes of the open meetings.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/seg

Ref: ID# 180757

Enc: Submitted documents

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