



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 19, 2006

Mr. David Aken
County Attorney
San Patricio County
400 West Sinton Street, Room 108
Sinton, Texas 78387

OR2006-14955

Dear Mr. Aken:

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# 267188.

San Patricio County (the "county") received a request for "feedback and Commissioner's Court Minutes related to the August 4, 2006 letter and Property Development Intervention Agreement submitted by the [Ernest R. Deitch Residuary] Trust to the Commissioner's Court in August." You state that the county interprets this as a request for any minutes from the county Commissioner's Court meeting which involved discussion of a contract proposed by the trust. We understand you to assert that the requested information is excepted from disclosure under sections 552.101, 552.102, 552.103, and 552.105 of the Government Code. We have considered the exceptions you claim.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information protected by other statutes. Gov't Code § 552.101. Section 551.104(c) of the Government Code provides that "[t]he certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3)." *Id.* § 551.104(c). The county is not required to submit the certified agenda or tape recording of a closed meeting to this office for review. *See* Open Records Decision No. 495 at 4 (1988) (attorney general lacks authority to review certified agendas or tapes of executive sessions to determine whether a governmental body may withhold such information from disclosure under statutory predecessor to section 552.101 of the

Government Code). Such information cannot be released to a member of the public in response to an open records request. *See* Open Records Decision No. 495 (1988). You inform us that the only information responsive to the request consists of a tape recording from a closed meeting of the county Commissioner's Court that was authorized by sections 551.071 and 551.072 of the Open Meetings Act. Based on this representation, we find that the tape recording from this closed meeting is confidential under section 551.104(c) and must be withheld from disclosure under section 552.101 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,

A handwritten signature in black ink that reads "Shelli Egger". The signature is written in a cursive style with a large, prominent "S" and "E".

Shelli Egger
Assistant Attorney General
Open Records Division

SE/sdk

Ref: ID# 267188

Enc. Submitted documents

c: Ms. Jane Armstrong
c/o David Aken
San Patricio County
400 West Sinton Street, Room 108
Sinton, Texas 78387
(w/o enclosures)