



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 18, 2009

Mr. Roger Gordon  
Bojorquez Law Firm, PLLC  
12325 Hymeadow Drive, Suite 2-100  
Austin, Texas 78750

OR2009-17942

Dear Mr. Gordon:

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# 364647.

The City of West Lake Hills (the "city"), which you represent, received a request for (1) all ordinances, resolutions, or other documents pertaining to the construction of retaining walls, landscape walls or other walls which the city contends are applicable to a specified property; (2) all ordinances, resolutions, or other documents amending, altering, or repealing the ordinances, resolutions, or other documents responsive to the first part of the request, and (3) agendas for any meetings in which executive sessions were held discussing these documents. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.<sup>1</sup>

Initially, we note that, although you state the agendas posted by the city pursuant to the Open Meetings Act satisfy a portion of the request, you do not state whether you have released a copy of these agendas to the requestor nor have you provided a copy of these posted agendas

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<sup>1</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

to this office. To the extent these agendas existed on the date the city received this request, we assume you have released them. If you have not released such agendas, you must do so at this time. See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information other statutes make confidential. Section 551.104 provides in part "[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). Thus, such information cannot be released to a member of the public in response to an open records request. See Attorney General Opinion JM-995 at 5-6 (1988) (public disclosure of certified agenda of closed meeting may be accomplished only under procedures provided in Open Meetings Act). Section 551.146 of the Open Meetings Act makes it a criminal offense to disclose a certified agenda or tape recording of a lawfully closed meeting to a member of the public. See Gov't Code § 551.146(a)-(b); see also Open Records Decision No. 495 at 4 (1988) (attorney general lacks authority to review certified agendas or tapes of executive sessions to determine whether governmental body may withhold such information under statutory predecessor to Gov't Code § 552.101). You seek to withhold certified agendas of closed meetings held by the city. Based on your representations, we agree the city must withhold the certified agendas of executive sessions from public disclosure under section 552.101 of the Government Code in conjunction with section 551.104(c) of the Government Code.<sup>2</sup>

We note that the submitted information, which you seek to withhold under section 552.103 of the Government Code, consists of copies of city ordinances. Because laws and ordinances are binding on members of the public, they are matters of public record and may not be withheld from disclosure under the Act. See Open Records Decision Nos. 551 at 2-3 (1990) (laws or ordinances are open records), 221 at 1 (1979) (official records of governmental body's public proceedings are among most open of records). Therefore, the submitted information must be released.

In summary, the city must withhold the certified agendas from public disclosure under section 552.101 of the Government Code in conjunction with section 551.104(c) of the Government Code. The remaining information must be released.

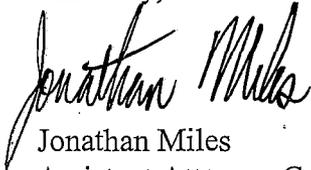
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<sup>2</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including certified agendas of executive sessions under section 552.101 of the Government Code in conjunction with section 551.104(c) of the Government Code, without the necessity of requesting an attorney general decision.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 364647

Enc. Submitted documents

c: Requestor  
(w/o enclosures)