



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 9, 2016

Ms. A. Feliz Abalos
Police Legal Advisor
Senior Assistant City Attorney
City of Odessa
P.O. Box 4398
Odessa, Texas 79760-4398

OR2016-20341

Dear Ms. Abalos:

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# 626449.

The City of Odessa (the "city") received a request for the proposal for the new city animal shelter and the ordinances regarding animal control. You state the city has released some information. You claim the submitted information is excepted from disclosure under section 552.106 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.106 of the Government Code excepts from disclosure "[a] draft or working paper involved in the preparation of proposed legislation" and "[a]n internal bill analysis or working paper prepared by the governor's office for the purpose of evaluating proposed legislation[.]" Gov't Code § 552.106(a), (b). Section 552.106 ordinarily applies only to persons with a responsibility to prepare information and proposals for a legislative body. Open Records 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

¹Although you also raise sections 552.108, 552.111, and 552.101 in conjunction with common-law privacy and constitutional privacy, you have not submitted arguments explaining how these exceptions or common-law or constitutional privacy applies to the submitted information. Therefore, we assume you have withdrawn these claims. See Gov't Code §§ 552.301, .302.

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.* Section 552.106 protects only policy judgments, advice, opinions, and recommendations involved in the preparation or evaluation of proposed legislation; it does not except purely factual information from public disclosure. *See* ORD 460 at 2.

You explain the submitted information consists of a draft or working paper involved in the preparation of proposed legislation that reflects policy judgments, recommendations, and proposals by city staff. You further explain the draft has not yet been presented to the public or the city council for approval. Based upon your representations and our review, we find the city has established the submitted information constitutes advice, opinion, analysis, and recommendations regarding ordinances or resolutions related to the city. Therefore, we conclude the city may withhold the submitted information under section 552.106 of the Government Code.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Katelyn Blackburn-Rader
Assistant Attorney General
Open Records Division

KB-R/bw

Ref: ID# 626449

Enc. Submitted documents

c: Requestor
(w/o enclosures)