



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 23, 2019

Mr. Mark Sanchez
Counsel for the La Joya Housing Authority
Sanchez & Wilson, P. L. L. C.
6243 Interstate 10 West, Suite 1025
San Antonio, Texas 78201

OR2019-26532

Dear Mr. Sanchez:

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# 787252 (Ref. No. 6596).

The La Joya Housing Authority (the "authority"), which you represent, received a request for records and recordings from a meeting of the authority's board of directors (the "board") on a specified date. You claim the submitted information is excepted from disclosure under sections 552.107, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹ We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."² *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 551.104 of the Open Meetings Act (the "OMA"), chapter 551 of the Government

¹ Although you raise rule 503 of the Texas Rules of Evidence and rule 192.5 of the Texas Rules of Civil Procedure, we note the proper exceptions to raise when asserting the attorney-client privilege or work product privilege for information not subject to section 552.022 of the Government Code, as in this case, are sections 552.107 and 552.111 of the Government Code, respectively. *See* Open Records Decision Nos. 676 at 1-2 (2002), 677 (2002).

² The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Code. 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). We note the authority is not required to submit a 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). 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 OMA 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). Upon review, we find a portion of the submitted information consists of a recording of an executive closed session of the authority’s board for purposes of the OMA. Therefore, the authority must withhold the portions of the submitted recordings from the executive closed session under section 552.101 of the Government Code in conjunction with section 551.104 of the Government Code.³

We note the remaining information consists of video recordings of an open meeting of the authority’s board. Section 551.022 of the OMA, chapter 551 of the Government Code, expressly provides the “minutes and 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. As a general rule, the exceptions to disclosure found in the Act do not apply to information other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, the district may not withhold the recordings of an open board meeting under sections 552.107, 552.108, or 552.111 of the Government Code. As no further exceptions against disclosure of this information are raised, the authority must release the recordings of an open board meeting pursuant to section 551.022 of the Government Code.

In summary, the authority must withhold the portions of the submitted recordings from the executive closed session under section 552.101 of the Government Code in conjunction with section 551.104 of the Government Code. The authority must release the remaining recordings of an open board meeting pursuant to section 551.022 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

³ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michelle Garza', with a long horizontal flourish extending to the right.

Michelle Garza
Assistant Attorney General
Open Records Division

MG/jxd

Ref: ID# 787252

Enc. Submitted documents

c: Requestor
(w/o enclosures)