



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 19, 2022

Ms. Monique Wimberly
Senior Assistant City Attorney
City of Odessa
P.O. Box 4398
Odessa, Texas 79760-4398

OR2022-14374

Dear Ms. Wimberly:

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# 948776 (Reference No. R002192-022422).

The City of Odessa (the "city") received a request for five categories of information pertaining to a specified topic during a defined period of time. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.106 of the Government Code. Additionally, you state you notified the Ector County District Attorney's Office (the "district attorney's office") of the request for information and of its right to submit comments to this office as to why the submitted information should not be released.¹ *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

Section 552.106(a) of the Government Code excepts from required public disclosure "[a] draft or working paper involved in the preparation of proposed legislation[.]" *Id.* § 552.106(a). Section 552.106(a) ordinarily applies only to persons with a responsibility to prepare information and proposals for a legislative body. *See* Open Records Decision No. 460 at 1 (1987). The purpose of this exception is to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the members of the legislative body. Therefore, section 552.106 encompasses only policy judgments, recommendations, and proposals of persons who are involved in the preparation of

¹ As of the date of this letter, we have not received comments from the district attorney's office.

proposed legislation and who have an official responsibility to provide such information to members of the legislative body. *Id.* Section 552.106 does not protect purely factual information from public disclosure. *Id.* at 2; *see also* Open Records Decision No. 344 at 3-4 (1982). However, a comparison or analysis of factual information prepared to support legislation is within the ambit of section 552.106. *See* ORD 460 at 2.

The city argues the submitted information is protected by section 552.106. However, upon review, we find the city has not demonstrated the submitted information constitutes policy judgments, recommendations, and proposals regarding proposed legislation related to the city. We, therefore, conclude the city may not withhold any of the submitted information under section 552.106 of the Government Code. As no further exceptions to disclosure have been raised, the city must release the submitted information.

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 <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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/jxd

Ref: ID# 948776

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)