



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 20, 1995

Mr. A. M. Avila
Assistant City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR95-1100

Dear Mr. Avila:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33466.

The City of El Paso (the "city") received a request for information relating to the operation and maintenance of certain international bridges. You contend that some of the requested information is excepted from required public disclosure under the attorney-client privilege, section 552.107 of the Government Code.¹

Information may be withheld under section 552.107(1) only to the extent that it documents confidences of a governmental representative to its attorney or reveals the attorney's legal advice and opinions. Open Records Decision Nos. 589 (1991), 574 (1990). The governmental body bears the burden of explaining how the particular information requested constitutes either a client confidence or a communication of legal advice or opinion protected under section 552.107(1). *See, e.g.*, Open Records Decision No. 589 (1991). In addition, the governmental body should appropriately mark the copy of the requested information submitted to the attorney general to identify which portions constitute client confidences and which contain legal advice. *Id.* When it is not apparent on the face of the document, the governmental body should indicate whether the communication is to or from an attorney, a client, or a representative of either.

¹In Open Records Decision No. 574 (1990), the attorney general determined that the statutory predecessor to section 552.107(1) of the Government Code was the appropriate section for a governmental body to cite when seeking to except from required public disclosure communications between the governmental body and its legal counsel, not section 552.101.

You assert that the submitted documents "consist of legal opinions expressed by various City Attorneys and Assistant City Attorneys on a variety of topics relating to the International Bridges and confidential communications between City Attorneys and Assistant City Attorneys with their clients." We agree that the submitted documents contain legal advice and opinion. All of the documents except one appear to be communications between the city's legal staff and other officials of the city. You have not explained, however, how the letter of August 11, 1975 from Assistant City Attorney David J. LaBrec to Mr. Bill Duncan, an attorney with Kemp, Smith, White, Duncan & Hammond, constitutes a protected communication from a city attorney to his client. You may not withhold this letter under section 552.107 of the Government Code. The remaining letters, however, may be withheld under section 552.107.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/LBC/rho

Ref: ID# 33466

Enclosures: Submitted documents

cc: Mr. Eliot G. Shapleigh
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El Paso, Texas 79902
(w/o enclosures)