



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 18, 1995

Mr. Paul F. Wieneskie
Cribbs & McFarland
P.O. Box 13060
Arlington, Texas 76094-0060

OR95-1429

Dear Mr. Wieneskie:

As counsel for the City of Richland Hills (the "city"), 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# 22576.

The city received an open records request for your "law firm's itemized invoices covering legal services rendered [to the city] for the period January 1, 1993 through May 15, 1993." The city states that portions of these attorney fee statements submitted should be precluded from disclosure under sections 552.101, 552.103, 552.105, 552.106, 552.107, and 552.108 of the Government Code. The city has marked the documents with some of the exceptions it claims to disclosure.

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this case, the city states that any references in the documents to the "Powell grievance" should be excluded since litigation was subsequently filed on this matter, but the case was "eventually settled."

The applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). As you inform us that this matter was settled, the litigation is no longer pending. Consequently, section 552.103 does not apply to the requested information.

The city also asserts that certain entries in the statements relate to proposed ordinances and should be protected by section 552.106 as proposed in the submitted documents. Section 552.106 provides that:

A draft or working paper involved in the preparation of proposed legislation is excepted from the requirements of section 552.021.

In Open Records Decision No. 460 (1987), this office ruled under the predecessor statute of section 552.106 that a city manager's proposed draft of a city budget was a draft of legislation, and could be withheld from disclosure. *Id.* at 3. However, purely factual matters that can be disclosed without revealing protected judgments or recommendation are not protected by section 3(a)(6). Open Records Decision Nos. 460 (1987), 197 (1978), 140 (1976). In this instance, the documents at issue are attorney fee statements, not actual drafts or working papers of proposed ordinances. The statements do not reveal judgments or recommendations; thus, section 552.106 does not apply to the requested information.

The city also claims that section 552.107(1) applies to the information at issue. Section 552.107 excepts information if:

- (1) it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas; or

In Open Records Decision No. 574 (1990), this office held that section 552.107(1) protects information that revealed client confidences to an attorney or that revealed the attorney's legal advice. Section 552.107(1), however, does not protect purely factual information, unless it contains legal advice or reveals client confidences. *Id.* at 5-7; *see also* Open Records Decision No. 589 (1991).

We generally agree with your markings of the information on the bills that is protected from disclosure under section 552.107(1). However, we have marked one portion of the statement that we believe is not so protected.¹

¹You claim that some of the requested information is excepted from disclosure by sections 552.101, 552.105, and 552.108 of the Government Code. However, you have not shown how the exceptions apply to any of the documents submitted for our review. Nor is the applicability of these exceptions otherwise apparent. Thus, we need not address these claims. We remind you that under the Open Records Act, the governmental body has the burden of proving that records are excepted from disclosure; otherwise, the information is presumed to be public information. Attorney General Opinion H-436 (1974); *see also* Gov't Code §§ 552.301, 552.302.

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 22576

Enclosures: Marked documents

cc: Mr. T.S. Bridges
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Richland Hills, Texas 76118
(w/o enclosures)

