



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 13, 1997

Ms. Deborah L. Gregory
Attorney and Counselor at Law
P.O. Box 1467
Sherman, Texas 75091-1467

OR97-1816

Dear Ms. Gregory:

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# 107999.

The Van Alstyne Independent School District (the "school district"), which you represent, received a request for copies of "the Heartland letter," "the interference agreement," "comments regarding revisions to Real Estate Agreement," and for the "names, addresses, and telephone numbers of all partners involved in the Van Alstyne Partners, Ltd." You indicate that the school district has made available some of the requested information to the requestor. You claim, however, that the remaining requested information is excepted from disclosure under section 552.107 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, you assert that your office does not have the requested information concerning the names, addresses, and telephone numbers of all partners involved in the Van Alstyne Partners, Ltd., although you are providing a letter "indicating ownership of the general partner of Van Alstyne Partners, Ltd." Chapter 552 of the Government Code does not ordinarily require a governmental body to obtain information not in its possession, Open Records Decision No. 558 (1990), 518 (1989), 499 (1988), or to obtain information from another entity, so long as the entity does not hold the information on behalf of the governmental body, Open Records Decision No. 534 (1989), or to obtain new information in order to comply with a request, Open Records Decision No. 561 (1990), or to take affirmative steps to create or obtain information that is not in its possession, Open Records Decision No. 534 (1989). However, a governmental body has a duty to make a good faith effort to relate a request for information to information that the governmental body holds. Open Records Decision No. 561 (1990) at 8. If the school district holds records from which the requested information can be obtained, it must provide that information to the requestor unless it is otherwise excepted from disclosure.

Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. Open Records Decision No. 574 (1990) at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. In addition, factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* In addition, section 552.107(1) is waived by disclosure to persons outside the attorney-client relationship of the information sought to be withheld. Open Records Decision No. 630 (1994). You have represented to this office that the document sought to be withheld from public disclosure is a draft of proposed correspondence and has not been disclosed to any third party. We find that the document at issue reveals the attorney's legal opinion or advice and, therefore, may be withheld from disclosure under section 552.107.

You also contend that the school district may seek advance payment for costs less than \$100.00 for copying the information at issue. *But see* Gov't Code § 552.263. The Texas General Services Commission sets rules specifying the methods and procedures for determining charges for public information. Gov't Code § 552.262. You should contact the Texas General Services Commission if you have questions concerning the cost of providing copies of public information.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/alg

Ref.: ID# 107999

Enclosures: Submitted document

cc: Mr. Charles D. Macklin
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(w/o enclosures)

1

