



April 26, 1999

Ms. Linda Cloud
Executive Director
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630

OR99-1121

Dear Ms. Cloud:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 123602.

The Texas Lottery Commission (the "commission") received a request for information relating to a specific complaint. You claim that the submitted documents are excepted from disclosure under sections 552.107 and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

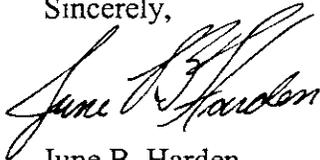
Initially, you argue that the records submitted as Exhibits B, B-1, and B-2 may be withheld under the attorney-client privilege. Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that 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. *Id.* 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, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* We agree that Exhibit B and the marked portion of Exhibit B-2 may be withheld under section 552.107(1) of the Government Code. Exhibit B-1 and the remaining portion of Exhibit B-2 do not contain

confidential client communications or an attorney's legal advice or opinions and, therefore, may not be withheld under section 552.107(1).

You also assert that the documents submitted as Exhibits B-1, C and C-1 may be withheld under section 552.111. Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. Open Records Decision No. 615 at 5-6 (1993). It appears that the submitted documents involve an internal administrative or personnel matter. Thus, the commission may not withhold Exhibits B-1, C or C-1 under section 552.111.

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.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 123602

encl. Submitted documents

cc: Mr. James Alvarez
10006 Rocking Horse Road
Austin, Texas 78748
(w/o enclosures)