



May 7, 1999

Ms. Melody Thomas
Wells, Peyton, Greenberg & Hunt, L.L.P.
550 Fannin, Sixth Floor
Beaumont, Texas 77704-3708

OR99-1247

Dear Ms. Thomas:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123854.

The Port Arthur Independent School District ("PAISD"), which you represent, received requests for copies of the board book provided to PAISD Board of Trustees members at their regular meetings. You indicate that since January of 1999, you have released to the media redacted versions of board books. You seek to withhold personnel recommendations to the board and details of attorney billings contained in the requested board books. You contend that this information is excepted from public disclosure by sections 552.103, 552.104 and 552.107(1) of the Government Code. You also raise section 551.074 of the Government Code. You have supplied a copy of the January 1999 board book and an excerpt from the book that indicates the attorney fee bill information you seek to withhold. We have considered the exceptions you claim and have reviewed the documents submitted.

The submitted request for information, dated February 4, 1999, references other similar requests made by this requestor. As you have not sought an opinion regarding materials responsive to these earlier requests, we assume that all responsive information that existed at the time a written request was previously received, and that does not implicate a protected third party interest or is not considered confidential by law, has been released.¹ If you have

¹A governmental body need not comply with a request to provide information "on a periodic basis." Open Records Decision No. 465 (1987). Further, a governmental body is not required to treat a request as

not released this information, you must do so now. *See* Gov't Code §§ 552.021, 552.301, 552.302.

You state that personnel recommendations are “confidential inter-agency memoranda,” thereby implying that they are excepted from disclosure by section 552.111 of the Government Code. Section 552.111 excepts from required public disclosure interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity’s policymaking process. Open Records Decision No. 615 at 5 (1993). An agency’s policymaking functions do not encompass internal administrative or personnel matters, as 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). The subject recommendations are personnel matters, not excepted by section 552.111.

You also raise section 551.074 of the Government Code in the context of your argument against disclosure of this information. This provision permits a governmental body to deliberate certain personnel issues in executive sessions, provided that the employee who is the subject of those deliberations does not request a public meeting. Gov’t. Code § 551.074. However, the fact that information is discussed in an executive session does not except it from public disclosure as confidential. Open Records Decision Nos. 605 (1992), 485 (1987).

You also assert that certain details of attorney’s bills, which you have identified, are excepted from public disclosure. Section 552.107(1) protects 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 Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct.” *See* Open Records Decision No. 574 (1990). In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney’s legal advice and confidential attorney-client communications. *Id.* Accordingly, these two classes of information are the only information that may be withheld pursuant to the attorney-client privilege. *See also* Open Records Decision No. 589 (1991) (protected information in attorney billing statements) *overruling to extent of conflict* Open Records Decision No. 304 (1982).

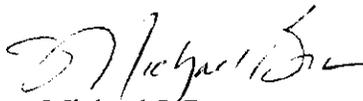
The invoices submitted do not reveal the parties to, or substance of, any client communication, nor have you explained how the information reveals a client confidence or attorney advice or opinion. We conclude that you have not shown how this information is excepted from disclosure by section 552.107(1). All information contained in the submitted invoices must be released at this time.

embracing information prepared after the request was made, or to inform the requestor subsequently when the information does come into existence. Open Records Decision No. 452 (1986).

We do not discuss the applicability of sections 552.103 or 552.104 to the submitted information other than to note that you have not shown how this information relates to any pending or reasonably anticipated litigation or how its release would give advantage to a competitor or bidder.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 123854

encl. Submitted documents

cc: Ms. Susan Walker
Port Arthur News
549 Forth Street
Port Arthur, Texas 77641
(w/o enclosures)