



August 31, 1999

Mr. Sealy Hutchings
General Counsel
Office of Consumer Credit Commissioner
2601 N. Lamar Blvd.
Austin, Texas 78705

OR99-2447

Dear Mr. Hutchings:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128181.

The Office of Consumer Credit Commissioner (the "OCCC") received a request for information concerning Senate Bill 878 (73rd Legislature) and Finance Commission Interpretation 94-1. You have released some of the information to the requestor. You claim that some of the responsive information is excepted from disclosure by sections 552.107 and 552.111 of the Government Code. You have submitted the documents you seek to withhold.

You assert that section 552.111 excepts Attachments B, C, and D from public disclosure. Section 552.111 excepts "an interagency or intra-agency 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 Department of Public 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).

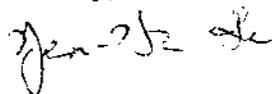
Section 552.111 also excepts from required public disclosure preliminary drafts of documents if those documents are related to policymaking matters, since drafts represent the advice, opinion, and recommendation of the drafter as to the form and content of the final documents. See Open Records Decision No. 559 (1990). Section 552.111 does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. ORD 615. However, when such factual matter is contained in the final version of the document, the release of the final version satisfies this requirement. *Id.*

We have reviewed the submitted information and conclude that section 552.111 excepts Attachment B from required public disclosure as a draft document, provided any factual information contained in the draft is also contained in the released final version. Additionally, you may withhold Attachments C and D in their entirety under section 552.111 as information consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the OCCC.

Next, you assert that section 552.107 excepts the handwritten notes in Attachment E from public 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. *Id.* at 5. We conclude that the handwritten notes in Attachment E are confidential client communications that you may withhold 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 regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref: ID# 128181

Encl.: Submitted documents

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