



February 29, 2000

Ms. Elizabeth Elam  
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.  
500 Throckmorton Street, Suite 3400  
Fort Worth, Texas 76102-3821

OR2000-0784

Dear Ms. Elam:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132559.

The City of Azle (the "city"), which you represent, received a request for any and all records pertaining to the annexation of properties by the city including all memos, notes and correspondence/communication with the city's contract attorneys concerning South Stewart Street and Highway 199 areas. You claim that the requested information related to the city's attorneys is excepted from disclosure under section 552.107 of the Government Code. We assume that you have released to the requestor other records pertaining to annexation. We have considered the exception you claim and reviewed the submitted information.<sup>1</sup>

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 at 5 (1990). When communications from attorney to client do not reveal the client's communications to the

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<sup>1</sup>We have also reviewed the correspondence sent to this office by the requestor. See Gov't Code § 552.304 (providing that member of public may submit written comments stating reasons why information should or should not be released).

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, purely factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.*

Section 552.107(1) protects only the details of the substance of attorney-client communications which means that the exception applies only to information that reveals attorney advice and opinion or client confidences. *Id.* In general, documentation of calls made, meetings attended, or memos sent is not protected under this exception. *See* Open Records Decision Nos. 589 (1991), 212 (1978) (even though the content of a communication might be confidential, the fact of a communication is ordinarily not excepted from disclosure). We have reviewed the submitted documents and conclude that most of the documents reflect an attorney's legal advice or opinions. We have marked the information that you may withhold under section 552.107(1). However, the remaining information does not reveal client confidences or reflect an attorney's legal advice or opinions and must be released to the requestor.<sup>2</sup>

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental

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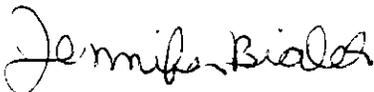
<sup>2</sup>We note that information held by a private attorney on behalf of a governmental body is subject to the Public Information Act. *See* Open Records Decision No. 499 (1988). However, this information is also subject to the Public Information Act's exceptions, such as section 552.107, which we found applicable to most of the submitted information.

body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jennifer Bialek  
Assistant Attorney General  
Open Records Division

JHB/ch

Ref: ID# 132559

Encl. Marked documents

cc: Ms. Billie Ruth Smith  
500 Dunaway  
Azle, Texas 76020  
(w/o enclosures)