



March 31, 2000

Ms. Lisa Aguilar  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2000-1253

Dear Ms. Aguilar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134215.

The City of Corpus Christi (the "city") received a request for all documents pertaining to a complaint filed on a violation of the City Ordinance regarding the visual obstructions at the Goldeneye and Pintail intersection. You have released most of the information to the requestor. However, you claim that the remaining documents, Exhibits C through G, are excepted from disclosure under sections 552.106, 552.107, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

First, we address your assertion that Exhibits C through F, documents representing communications between the city's staff members and the city's attorney, are excepted from public disclosure pursuant to section 552.107 of the Government Code. 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(1) 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(1) protects them only to the extent that such communications reveal the attorney's legal advice. *Id.* at 3. In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* Based on your assertions and our review of Exhibits C through F, we conclude that these documents reflect confidential communications from the client to the attorney or the attorney's legal advice or opinion. Thus, Exhibits C through F are excepted

from public disclosure in their entirety under section 552.107(1) of the Government Code. Because we are able to make a determination under section 552.107 regarding Exhibits C through F, we need not address your section 552.111 claim regarding these documents.

Next you assert that Exhibit G, a draft amendment of a municipal ordinance, is excepted from public disclosure under section 552.106 of the Government Code. Section 552.106(a) protects drafts and working papers involved in the preparation of proposed legislation. The purpose of the exception is similar to that of section 552.111: to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the legislative body and to thereby protect the internal “deliberative” or policy making processes of a governmental body. Open Records Decision No. 460 (1987). Section 552.106 does not except purely factual material; rather, it excepts only policy judgments, recommendations, and proposals involved in the preparation of proposed legislation. Section 552.106 applies only to drafts and working papers prepared by persons with some official responsibility to prepare them for the legislative body. *Id.* You state that Exhibit G is a draft of an amendment to the city’s municipal ordinances. After reviewing the documents, we find that Exhibit G may be withheld from public disclosure pursuant to section 552.106(a) of the Government Code.

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 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,



Noelle C. Letteri  
Assistant Attorney General  
Open Records Division

ncl/nc

Ref: ID# 134215

Encl. Submitted documents

cc: Ms. Cheryl Wheeler  
5009 Goldeneye Drive  
Corpus Christi, Texas 78413  
(w/o enclosures)