



June 1, 2000

Ms. Marianna M. McGowan  
Bracewell & Patterson, L.L.P.  
Attorneys at Law  
500 North Akard Street, Suite 4000  
Dallas, Texas 75201-3387

OR2000-2135

Dear Ms. McGowan:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 135782.

The Hurst-Eules-Bedford Independent School District (the "district"), which you represent, received a request for all invoices, itemized billing statements, records of payment, and related correspondence, regarding the requestors or the requestors' son, to and from certain named attorneys, any other members of the Bracewell & Patterson law firm, another attorney, and any other outside sources of consultation. You claim that certain information contained in responsive attorneys' billing statements is excepted from disclosure under sections 552.101, 552.103, 552.107, and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

Initially we note that a bill for attorney's fees is subject to disclosure under section 552.022 of the Public Information Act. Section 552.022 provides in relevant part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

(16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege[.]

Gov't Code § 552.022(a)(16). For the purposes of section 552.022(a), sections 552.103 and 552.111 of the Act are not other laws that make information expressly confidential. *See* Open Records Decision No. 665 at 2 n.5 (2000) (explaining that sections 552.103 and 552.111 are not confidentiality provisions). Furthermore, section 552.101 of the Act, which excepts from

disclosure information deemed confidential under other law, does not incorporate the attorney-client privilege. *See* Open Records Decision No. 575 at 2 (1990) (stating that statutory predecessor to section 552.101 does not encompass discovery privileges). Thus, with the exception of any information that is subject to the attorney-client privilege under section 552.107, the contents of the submitted bills for attorney's fees are subject to required public disclosure under section 552.022(a)(16) and must be released.

Section 552.107 of the Government Code provides in relevant part that information is excepted from required public disclosure if

it is 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[.]

Gov't Code § 552.107(1). Although the scope of section 552.107(1) would appear to be co-extensive with that of rule 1.05 of the Texas Disciplinary Rules of Professional Conduct, which prohibits an attorney from divulging "confidential information," this office has concluded that such an interpretation of rule 1.05 would be in potential conflict with the purposes of the Act. *See* Open Records Decision No. 574 at 4-5 (1990) (construing predecessor statute). Accordingly, this office has determined that section 552.107(1) protects only what rule 1.05 describes as "privileged" information, *i.e.*, information that represents confidential communications between attorney and client. *Id.* at 5. "Unprivileged" information, as defined by rule 1.05, is not excepted from disclosure under section 552.107(1). *Id.*

Thus, section 552.107(1) excepts from disclosure only factual information or requests for legal advice communicated by the client to the attorney and legal advice or opinion rendered by the attorney to the client or to an associated attorney in the course of rendering legal services to the client. *Id.* at 7-8. In Open Records Decision No. 574 (1990), this office also stated:

In general, the attorney's mere documentation of calls made, meetings attended, or memos sent is not protected under [the statutory predecessor to section 552.107(1)], if no notes revealing the attorney's legal advice or the client's confidences are included. Such documentation simply does not embody attorney-client communication.

*Id.* at 7; *see also* Open Records Decision No. 589 (1991) (applying same analysis to attorney fee bill). In this instance, much of the information in the submitted billing statements does not represent privileged attorney-client communications that are protected under section 552.107(1). We have marked certain portions of the billing statements that the district may withhold pursuant to section 552.107(1). The remaining information in the requested attorney billing statements is not excepted from disclosure and must be released.

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.

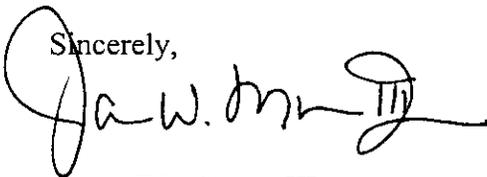
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge 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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a large initial "J" and "M".

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ljp

Ref: ID# 135782

Encl. Submitted documents

cc: Ms. Anne Strasburger  
Mr. Erich Strasburger  
3225 Ashland Drive  
Bedford, Texas 76021-6503  
(w/o enclosures)