



December 19, 2001

Ms. Ann-Marie P. Sheely  
Assistant County Attorney  
County of Travis  
P.O. Box 1748  
Austin, Texas 78767

OR2001-5968

Dear Ms. Sheely:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 156392.

The Travis County Commissioners Court (the "county") received a written request for various records pertaining to the county's Reapportionment Program. You state that most of the requested information has been released to the requestor. Additionally, you inform us that the county does not possess any records responsive to the request for "Voting Rights Act submissions."<sup>1</sup> You contend, however, that certain other information responsive to the request, a representative sample of which you submitted to this office, is excepted from disclosure under section 552.107 of the Government Code.<sup>2</sup>

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. 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 client confidences 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).

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<sup>1</sup>Consequently, the county need not provide any records in response to this aspect of the request. See Open Records Decision No. 445 (1986).

<sup>2</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

You have submitted to this office for review three sets of documents that you contend are protected from disclosure under section 552.107(1): notes prepared by the county's attorney during an executive session of the commissioners court, other handwritten notes prepared by the attorney, and an internal memorandum prepared at the request of the attorney. After reviewing these records, we agree that the county may withhold the attorney's handwritten notes from the executive session in their entirety. We also agree that the other attorney notes, but not the underlying documents, are protected under the attorney-client privilege, assuming that these notes in fact constitute an attorney-client communication. Finally, we agree that the memorandum you submitted this office comes under the protection of the attorney-client privilege. Accordingly, the county may withhold the attorney notes and the submitted memorandum pursuant to section 552.107(1) 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).

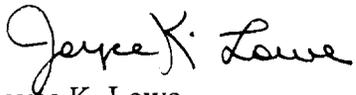
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

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,



Joyce K. Lowe  
Assistant Attorney General  
Open Records Division

JKL/RWP/sdk

Ref: ID# 156392

Enc: Submitted documents

c: Mr. James Logan  
Executive Director  
*Austin Review*  
1609 Shoal Creek Boulevard, Suite 204  
Austin, Texas 78701  
(w/o enclosures)