



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 20, 2009

Ms. Angela H. Robinson  
Law, Snakard & Gambill, P.C.  
1600 West Seventh Street, Suite 500  
Fort Worth, Texas 76102

OR2009-10035

Dear Ms. Robinson:

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# 349418.

The Tarrant County College District (the "district"), which you represent, received a request for 1) information pertaining to a certain agreement and 2) a copy of the certification required by section 44.034 of the Education Code. The district states it has no information responsive to item 2 and seeks to withhold a portion of the remainder under section 552.107 of the Government Code and Texas Rule of Evidence 503. We have considered the district's arguments and reviewed the submitted information.

The submitted attorney fee bills are subject to section 552.022(a)(16) of the Government Code, which provides for the required public disclosure of "information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege," unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(16). Although the district seeks to withhold information contained in the attorney fee bills under section 552.107 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. Open Records Decision Nos. 676 at 10-11 (2002) (attorney-client privilege under Gov't Code § 552.107(1) may be waived), 665 at 2 n.5 (discretionary exceptions generally). As such, section 552.107 is not other laws that makes information confidential for purposes of section 552.022(a)(16). Therefore, the district may not withhold the information under section 552.107. However, the Texas Supreme Court has held the Texas Rules of Evidence are other laws within the

meaning of section 552.022. *See In re City of Georgetown*, 53 S.W.3d 328, 336 (Tex. 2001). The attorney-client privilege is found at Texas Rule of Evidence 503. Accordingly, we will consider the district's rule 503 assertion for the information in the attorney fee bills.

Texas Rule of Evidence 503 provides as follows:

A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client:

- (A) between the client or a representative of the client and the client's lawyer or a representative of the lawyer;
- (B) between the lawyer and the lawyer's representative;
- (C) by the client or a representative of the client, or the client's lawyer or a representative of the lawyer, to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein;
- (D) between representatives of the client or between the client and a representative of the client; or
- (E) among lawyers and their representatives representing the same client.

TEX. R. EVID. 503(b)(1). A communication is "confidential" if not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication. *Id.* 503(a)(5).

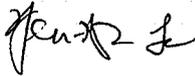
Thus, in order to withhold attorney-client privileged information from disclosure under rule 503, a governmental body must: (1) show the document is a communication transmitted between privileged parties or reveals a confidential communication; (2) identify the parties involved in the communication; and (3) show that the communication is confidential by explaining it was not intended to be disclosed to third persons and it was made in furtherance of the rendition of professional legal services to the client. Upon a demonstration of all three factors, the information is privileged and confidential under rule 503, provided the client has not waived the privilege or the document does not fall within the purview of the exceptions to the privilege enumerated in rule 503(d). *Pittsburgh Corning Corp. v. Caldwell*, 861 S.W.2d 423, 427 (Tex. App.—Houston [14th Dist.] 1993, no writ).

The district states the attorney fee bills document communications between the district and its attorneys that were made in connection with the rendition of professional legal services to the district. The district also states the communications were intended to be confidential. Based on these representations and our review of the information, we have marked the information the district may withhold under rule 503. However, the remaining information does not document privileged communications and must be released to the requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/sdk

Ref: ID# 349418

Enc. Marked documents

c: Requestor  
(w/o enclosures)