



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 7, 2014

Ms. Michelle Weiser
Counsel for the City of Lexington
Schneider, Krugler, Kleinschmidt & Weiser, P.C.
P.O. Box 507
Giddings, Texas 78942

OR2014-07740

Dear Ms. Weiser:

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# 525295.

The City of Lexington (the "city"), which you represent, received a request for all invoices to the city from a specified law firm during a specified time period. You claim some of the submitted information is privileged under Texas Rule of Evidence 503.¹ We have considered your argument and reviewed the submitted information.

We note the submitted information consists of attorney fee bills which are subject to section 552.022(a)(16) of the Government Code. Section 552.022(a)(16) provides for 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 confidential under the Act or other law. Gov't Code § 552.022(a)(16). The Texas Supreme Court has held that the Texas Rules of Evidence are "other law" within the meaning of section 552.022. *See In re City of Georgetown*, 53 S.W.3d 328, 336 (Tex. 2001). Accordingly, we will address your claim of the attorney-client privilege under Texas Rule of Evidence 503 for the information at issue.

¹Although you do not specifically cite to Texas Rule of Evidence 503, we understand you to claim rule 503 based on your assertion of the attorney-client privilege.

Texas Rule of Evidence 503 enacts the attorney-client privilege. Rule 503(b)(1) 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 it is 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 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). *See Pittsburgh Corning Corp. v. Caldwell*, 861 S.W.2d 423, 427 (Tex. App.—Houston [14th Dist.] 1993, no writ).

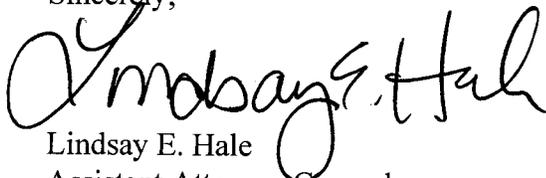
You assert the information you have marked is protected by the attorney-client privilege. You indicate the information you have marked consists of privileged communications made in furtherance of professional legal services rendered to the city. We understand these communications were intended to be and have remained confidential. However, you have

failed to identify the parties to the communications in the submitted information. *See* Open Records Decision No. 676 at 8 (2002) (governmental body must inform this office of identities and capacities of individuals to whom each communication at issue has been made; this office cannot necessarily assume that communication was made among only categories of individuals identified in rule 503). *See generally* Gov't Code § 552.301(e)(1)(A). Nevertheless, upon review, we are able to discern from the face of the documents that certain individuals are privileged parties. Accordingly, we conclude the city may withhold the information we marked under Texas Rule of Evidence 503. However, we find the remaining information at issue either reveals communications with individuals you have not demonstrated are privileged parties or the information does not reveal the content of a communication. Accordingly, none of the remaining information at issue may be withheld on that basis. As no further arguments against disclosure have been made, the city must release the remaining information 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/akg

Ref: ID# 525295

Enc. Submitted documents

c: Requestor
(w/o enclosures)