



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 29, 2015

Ms. Melissa A. Mihalick
Counsel for the College of the Mainland
Bracewell & Guiliani, LLP
711 Louisiana Street, Suite 2300
Houston, Texas 77002-2770

OR2015-12878

Dear Ms. Mihalick:

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# 569479.

The College of the Mainland (the "college"), which you represent, received a request for information related to 1) the total legal expenditures for attorneys, legal settlements, and professional legal expenses over a specified time period; 2) copies of all documents related to these expenditures; and 3) all documents related to the expenditures in a specified case.¹ You claim some of the requested information is excepted from disclosure under sections 552.101 and 552.107 of the Government Code. We have considered the exceptions you claim.

We must address the procedural obligations of the college under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business

¹You state the requestor narrowed her request in response to a cost estimate. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor to clarify or narrow request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380,387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e). In this instance, the college states it received the narrowed request for information on April 27, 2015. As of the date of this letter, the college has not submitted for our review written comments stating the reasons why the stated exceptions apply or a copy or representative sample of the information requested. Consequently, we find the college failed to comply with section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information at issue is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-81 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). Although you assert the responsive information is excepted from release under section 552.107 of the Government Code, section 552.107 is discretionary in nature and serves only to protect a governmental body's interests. As a result, the college's claim under section 552.107 is not a compelling reason to overcome the presumption of openness for the information at issue. *See* Open Records Decision Nos. 676 at 10-11 676 (2002) (attorney-client privilege under Gov't Code § 552.107(1) may be waived), 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Thus, the college may not withhold the responsive information under section 552.107 of the Government Code. Although the college also raises section 552.101 of the Government Code, which is a mandatory exception to disclosure, because you have not submitted the responsive information for our review, we have no basis for finding any of it excepted from disclosure or confidential by law. Thus, we have no choice but to order the requested information released pursuant to section 552.302. If you believe the information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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,

A handwritten signature in black ink, appearing to read 'JB', with a long horizontal flourish extending to the right.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 569479

c: Requestor