



June 6, 2000

Mr. Hugh Davis, Jr.
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102-6311

OR2000-2207

Dear Mr. Davis:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136055.

The City of Fort Worth (the “city”) received a request for funding applications and legal opinions regarding improvements and operations at Alliance Airport. You state that the city intends to release the requested funding information. However, you claim that the requested legal opinions are excepted from disclosure under sections 552.101 and 552.107 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.107(1) excepts from disclosure 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 confidential communications from the client 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). When communications from attorney to client do not reveal the client’s communications to the attorney, section 552.107(1) protects them only to the extent that such communications reveal the attorney’s legal opinion or advice. Open Records Decision No. 574 at 3 (1990). In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.*

¹You raise both exceptions in regard to the attorney-client privilege.

You argue that the information at issue, two legal memoranda, are excepted from required disclosure under section 552.107. Both memoranda are from the city's attorneys to city officials, and both memoranda consist of legal advice. Therefore, we agree that the text of both memoranda falls under section 552.107 and may be withheld. However, attached to the memorandum dated April 14, 1997 is an excerpt from an ordinance. This attachment does not fall under section 552.107 and must be released. Open Records Decision Nos. 551 at 2-3 (1990)(laws or ordinances are open records), 221 at 1 (1979) ("official records of the public proceedings of a governmental body are among the most open of records"). Therefore, while the city may withhold the text of both submitted memoranda, it must release the ordinance attached to the April 14, 1997 memorandum.²

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

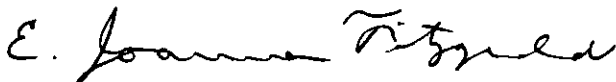
²Because section 552.107 is dispositive of this matter, we do not address your argument regarding section 552.101, except to note that section 552.107 is the proper exception to raise in regard to the attorney-client privilege. See Open Records Decision No. 575 at 2 (1990) (discovery privileges are not covered by section 552.101).

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,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\nc

Ref: ID# 136055

Encl: Submitted documents

cc: Mr. Steven K. DeWolf
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(w/o enclosures)