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ATTORNEY GENERAL OF TEXAS

June 13, 2017

Mr. Jaime J. Munoz
Counsel for the La Joya Independent School District
Jamie J. Munoz, Attorney at Law
P.O. Box 47
San Juan, Texas 78589

OR2017-13024

Dear Mr. Munoz:

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# 661560.

The La Joya Independent School District (the "district"), which you represent, received a request for any contract between the district and a specified law firm, as well as all records showing payment from the district to the specified law firm during a certain time period. You claim the submitted information is excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a)(3) provides for the required public disclosure of "information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body" unless it is "made confidential under [the Act] or other law[.]" Gov't Code § 552.022(a)(3). The submitted information consists of information in an account, voucher, or contract relating to the receipt or expenditure of public funds, and thus, is subject to section 552.022(a)(3). Therefore, the district must release this information unless it is confidential under the Act or other law. You raise section 552.107 of the Government Code for this information. However, section 552.107 does not make information confidential under the Act. *See* 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 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Accordingly, the district may not withhold the information at issue under section 552.107 of the Government Code. Nevertheless, section 552.107 encompasses the attorney-client privilege, which is found at rule 503 of the Texas Rules of Evidence. The Texas Supreme Court has held 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 (Tex. 2001). Therefore, we will consider the applicability of rule 503 for the information at issue.

Texas Rule of Evidence 503(b)(1) provides:

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

(A) between the client or the client’s representative and the client’s lawyer or the lawyer’s representative;

(B) between the client’s lawyer and the lawyer’s representative;

(C) by the client, the client’s representative, the client’s lawyer, or the lawyer’s representative to a lawyer representing another party in a pending action or that lawyer’s representative, if the communications concern a matter of common interest in the pending action;

(D) between the client’s representatives or between the client and the client’s representative; 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 to further the rendition of professional legal services to the client or reasonably necessary to transmit the communication. *Id.* 503(a)(5). Accordingly, in order to withhold attorney-client privileged information from disclosure under rule 503, a governmental body must 1) show that 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 that it was not intended to be disclosed to third persons and that it was made in furtherance of the rendition of professional legal services to the client. *See* ORD 676. Upon a demonstration of all three factors, the entire communication is confidential under rule 503, provided the client has not waived the privilege or the communication does not fall within the purview of the exceptions to the privilege enumerated in rule 503(d). *Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996)

(privilege extends to entire communication, including facts contained therein); *In re Valero Energy Corp.*, 973 S.W.2d 453, 457 (Tex. App.—Houston [14th Dist.] 1998, orig. proceeding) (privilege attaches to complete communication, including factual information).

You assert the submitted information consists of privileged attorney-client communications. You explain the information at issue was communicated between district representatives and attorneys for the district for the purpose of facilitating the rendition of professional legal services to the district. You state the information at issue was intended to be confidential and was not disclosed to non-privileged parties. Based on your representations and our review, we find this information consists of a communication protected by the attorney-client privilege. Accordingly, the district may withhold the submitted information under rule 503 of the Texas Rules of Evidence.

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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/sb

Ref: ID# 661560

c: Requestor