



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 24, 2022

Mr. Douglas R. Brock  
Counsel for Magnolia Independent School District  
DRB Law, P.L.L.C.  
3988 Far West Boulevard  
Austin, Texas 78731

OR2022-18193

Dear Mr. Brock:

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# 953794.

The Magnolia Independent School District (the "district"), which you represent, received a request for certain retainer agreements, billing statements pertaining to a named individual during a stated time period, and all payments made by the district relating to the named individual during a stated time period. The district states it released some of the requested information. The district claims the submitted information is privileged under Texas Rule of Evidence 503. We have considered the submitted argument and reviewed the submitted information.

Initially, the district acknowledges, and we agree, the submitted information consists of attorney fee bills that 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 expressly confidential under the Act or other law. *See* Gov't Code § 552.022(a)(16). 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, 336 (Tex. 2001). Accordingly, we will address the district's claim of the attorney-client privilege under rule 503 of the Texas Rules of Evidence for the submitted attorney fee bills.

Texas Rule of Evidence 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 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 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, orig. proceeding).

The district states the submitted fee bills include privileged attorney-client communications between an attorney for the district and district staff in their capacities as clients. The district explains the communications at issue were made for the purpose of the rendition of legal services to the district. The district states the communications at issue have not been, and were not intended to be, disclosed to third parties. Based on these representations and our review of the information at issue, we find the district has established the information we have marked constitutes privileged attorney-client communications under rule 503. Thus, the district may withhold the information we have marked within the submitted attorney fee bills pursuant to rule 503 of the Texas Rules of Evidence.

However, we note an entry stating a memorandum or an e-mail was prepared or drafted does not demonstrate the document was communicated to the client. We find the remaining information at issue either does not indicate it was communicated or consists of communications with parties whom the district has not established are privileged parties for purposes of rule 503. Therefore, the district has not demonstrated the remaining information at issue constitutes privileged attorney-client communications for the purposes of Texas Rule of Evidence 503. Accordingly, the district may not withhold any portion of the remaining information under rule 503. The district must release the remaining information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Katie Stallcup  
Assistant Attorney General  
Open Records Division

AKS/jxd

Ref: ID# 953794

Enc. Submitted documents

c: Requestor  
(w/o enclosures)