



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

October 25, 1989

Mr. Richard Contreras  
Attorney  
Town of Socorro  
124 South Horizon Blvd  
Socorro, Texas 79927

Dear Mr. Contreras:

This will acknowledge receipt of your letter of October 5, 1989, asking whether this office has issued any open records decisions addressing the public availability of bills submitted to a city by an attorney hired by the city to perform legal services. Your letter was assigned ID# 7833. This decision is OR89-346.

A copy of Open Records Decision No. 499 (1988) is enclosed. In that decision this office stated that the contract between a city and a private attorney is public, along with the specific amounts paid to the attorney.

Details on billing statements may be withheld under section 3(a)(1) as information deemed confidential by law only when they reveal information protected by the attorney-client privilege. For example, the fact that an attorney billed the city for legal advice on a specific lawsuit, including the fact that advice was given during an executive session, is not protected. The attorney-client privilege would protect the content of the advice. With regard to a pending lawsuit, the name of the suit would not be protected because it would have to be included in the notice of the meeting. See Cox v. Board of Trustees of the Houston Indep. School Dist., 706 S.W.2d 956, 959 (Tex. 1986).

Section 7(a) of the Open Records Act, article 6252-17a, V.T.C.S., provides:

If a governmental body receives a written request for information which it considers within one of the exceptions stated in Section 3 of this Act, but there has been no previous determination that it falls within one of the exceptions, the governmental body within a reasonable time, no later than ten days, after receiving a written request must

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request a decision from the attorney general to determine whether the information is within that exception. If a decision is not so requested, the information shall be presumed to be public information. (Emphasis added.)

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

In order to determine whether information is subject to a particular exception, this office must review the information. Section 7(b) states that requested information "shall be supplied to the attorney general but shall not be disclosed until a final determination has been made." If the documents are numerous and repetitive, you should submit representative samples. If, however, each document contains substantially different information, you must include copies of all of the documents or information.

Accordingly, if the Town of Socorro receives a written request for copies of its attorneys' bills, it must request a decision and must show why details on the bill, if any, are protected by the act's exceptions. The town should not request another decision, however, prior to releasing rates charged by and the amounts paid to its attorneys. If you have questions about this ruling, please refer to OR89-346.

Yours very truly,

Open Government Section  
of the Opinion Committee 

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of the Opinion Committee  
Prepared by Jennifer S. Riggs  
Chief, Open Government Section

JSR/lcd

Ref.: ID# 7833

Enclosure: ORD499