



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

July 16, 1991

Mr. Robert E. Shaddock
General Counsel
State Department of Highways
and Public Transportation
11th & Brazos
Austin, Texas 78701-2483

OR91-330

Dear Mr. Shaddock:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12180.

The State Department of Highways and Public Transportation received a request for all documents in its possession regarding H.B. 2060. You say that some documents have been released to the requestor, but you wish to withhold certain memoranda based on section 3(a)(1) of the Open Records Act, which excepts from required public disclosure information deemed confidential by law, either constitutional, statutory, or by judicial decision. You rely on the attorney-client privilege.

Recently this office determined that whereas past decisions have relied on section 3(a)(1) to protect information within the attorney-client privilege, the privilege is more specifically covered under section 3(a)(7). Open Records Decision No. 574 (1990). That opinion decided that the protection of section 3(a)(7) was limited to information that revealed client confidences to an attorney or that revealed the attorney's legal advice. Open Records Decision No. 589 (1991). Based on these principles, you may withhold all of the memoranda you submitted for our inspection pursuant to section 3(a)(7) of the Open Records Act with the exception of the memorandum from Diane Northam about a telephone report. Documentation of telephone calls that do not reveal legal advice or client confidences are not within the scope of section 3(a)(7). Open Records Decision No. 574 at 7. Since this memorandum was not included in your list of documents you wish to withhold, it may be that this document was inadvertently sent to this office.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-330.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", with a long horizontal flourish extending to the right.

Kay Guajardo
Assistant Attorney General
Opinion Committee

KHG/lb

Ref.: ID# 12180

Enclosures: Open Records Decision No. 574, 589

cc: Howard Kovar
Vice President
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