



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 28, 1994

Mr. Gary W. Smith
City Attorney
City of Galveston
Legal Department
P.O. Box 779
Galveston, Texas 77553-0779

OR94-109

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code (formerly V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 20603.

The City of Galveston (the "city") received an open records request for certain correspondence and other information relating to airport leases and lessees. The city claims that some of these documents are protected from disclosure by sections 552.107 and 552.111 of the Government Code (formerly section 3(a)(7) and 3(a)(11), V.T.C.S. article 6252-17a). The city submitted two responsive documents for our review, *i.e.*, letters dated April 27, 1993 and March 1, 1993 from the city attorney to the city's outside counsel.²

Section 552.107 states in relevant part that information is excepted from disclosure if:

¹We note that the Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

²Since these documents were the only ones submitted for our review, we assume that the city has released to the requestor all other information responsive to the request, to the extent that such other information exists.

(1) it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas.

Only certain types of documents are exempted from disclosure under section 552.107. In Open Records Decision No. 574 (1990), this office ruled that the attorney-client privilege prevented the disclosure of certain communications between the client or its representatives and the attorney or among lawyers serving the same client. *Id.* at 3. The attorney-client privilege protects factual information or requests for legal advice communicated by the client to the attorney, as well as the legal advice or opinion of the attorney rendered to the client or associated attorney in furtherance of the rendition of legal services to the client. *Id.* Basic factual communications from attorney to client or between attorneys representing the client are not protected. *Id.*

The two letters are correspondence between the city attorney and the city's outside counsel. These letters constitute communications among lawyers serving the same client and reveal legal advice and attorney opinion rendered to the client. These documents are therefore covered by section 552.107 and may be withheld.³

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 contact our office.

Yours very truly,


Rebecca L. Payne
Section Chief
Open Government Section

RLP/JCH/rho

Ref.: ID# 20603

³Because section 552.107 resolves your request, we need not address your arguments under section 552.111. We also do not address your arguments that the information consists of attorney work product, which you apparently raise under section 552.107. However, note that in Open Records Decision No. 574 (1990), this office ruled that attorney work product was a component of the "litigation" exception, section 552.103 (formerly section 3(a)(3)), which was not raised by the city in its request.

Enclosures: Submitted documents

cc: Mr. Blu Shields
P.O. Box 2550
Galveston, Texas 77553-2550
(w/o enclosures)