



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 8, 1995

Mr. John Steiner
Division Chief
Opinions, Research, and Contracts
Department of Law
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR95-370

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 31664.

The City of Austin (the "city") has received a request for eight categories of information relating to Brackenridge Hospital (the "hospital"). Specifically, the requestor seeks correspondence between the hospital and the Texas Department of Health; information relating to the hospital's operating license; information relating to the city's internal audit of the hospital's Support Services and Facilities Division, associate administrator, and the firm BSA Design; information relating to any electrical system failure in the hospital's intensive care unit; information relating to the resuscitation of patients awaiting elevator transport; and information relating to the hospital's heating-ventilation-air conditioning system, sprinkler system, and elevator system. You seek to withhold some of the requested information, which you have submitted to us for review (exhibits B and C), and claim that sections 552.107 and 552.111 of the Government Code except it from required public disclosure. As you do not comment on the remainder of the requested information, we presume that it has been or will be made available to the requestor.

You claim that section 552.107 of the Government Code excepts Exhibit B from required public disclosure. Section 552.107 excepts information if "it is information that . . . 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." Section 552.107(1) protects

information that reveals client confidences to an attorney, including facts and requests for legal advice, or that reveals the attorney's legal advice. See Open Records Decision No. 574 (1990). We have examined Exhibit B. We conclude that most of the document reveals client confidences to an attorney or attorney's legal advice. We have marked the information that may be withheld under section 552.107(1) of the Government Code.

You claim that section 552.111 of the Government Code excepts Exhibit C from required public disclosure. Section 552.111 excepts from disclosure an "interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined section 552.111 and concluded that it excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. Significantly, however, section 552.111 does not except from disclosure purely factual information. *Id.* at 5-6.

You have submitted to us for review certain documents prepared by the city audit department's public integrity unit. The documents relate to the audit department's investigation of a hospital division and include several preliminary interviews with hospital employees; handwritten notes of audit department employees prepared during interviews; handwritten notes of the hospital's chief executive officer made during his meeting with a certain hospital employee; documents prepared by audit department investigators; and hospital memoranda and correspondence. We conclude that, in this case, the information submitted as Exhibit C relates to the city's policymaking processes. However, much of the information is purely factual in nature. We have marked the information that the city may withhold in Exhibit C under section 552.111 of the Government Code. The remaining information must be disclosed.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

Ref.: ID# 31664

Enclosures: Submitted documents

cc: Mr. Mike Todd
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(w/o enclosures)