



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 22, 1995

Mr. Michael C. Crowley
Christie, Berry & Dunbar
1700 North Stanton
El Paso, Texas 79902

OR95-806

Dear Mr. Crowley:

As attorney for the Housing Authority of the City of El Paso ("Housing Authority"), you ask whether certain information requested from the Housing Authority is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33523.

The Housing Authority received a request for copies of any minutes taken and any audio tape recordings made of the meetings of the Board of Directors of the El Paso Housing Authority that relate to the litigation between Maria Luisa Rodriguez-Yepes and the Housing Authority. The requestor also asked for copies of any reports or presentations made by any attorneys to the Board of Directors of the Housing Authority or to the HUD district office in Lubbock,¹ relating to the same pending litigation against the authority.

You state that minutes of Housing Authority Board meetings were provided to the plaintiff's attorney in the pending litigation, except for the certified agendas of executive sessions, which are sealed and cannot be opened without a court order. We note that the minutes and tape recordings of an open meeting are public records and available to the public for inspection and copying. Gov't Code § 551.022. However, certified agendas or tape recordings of a closed session are confidential and may be disclosed to the public only under a court order issued under subsection 551.104(b)(3) of the Open Meetings Act. Gov't Code 551.104. The Open Records Act does not give the requestor access to certified agendas or tape recordings of a closed session held by the Housing Authority.

¹You have informed the requestor that there is no HUD district office in Lubbock.

You have submitted correspondence between your law office and the Housing Authority Board that includes some information responsive to the request. You claim that this information is privileged as attorney-client communications. Section 552.107 of the Government Code² excepts information from required public disclosure if

(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; or

(2) a court by order has prohibited disclosure of the information.

Section 552.107 of the Government Code protects communications from attorney to client that reveal the attorney's legal opinion or advice. Open Records Decision No. 574 (1990) at 5. Open Records Decision No. 574 (1990) at 3. Factual communications from attorney to client are not protected by section 552.107 of the Government Code.

You have submitted several letters from your law firm to the Board of Commissioners of the Housing Authority reporting on pending litigation and claims that may be asserted in the future. We note that some of the information submitted to this office does not appear responsive to the request. The information about this lawsuit contains some legal advice and opinion, but it also contains factual information, such as case names and an account of the proceedings in a lawsuit that are a matter of public record in the courthouse. The factual information is not excepted from disclosure by section 552.107 of the Government Code. We have marked some of the information you sent for our review, as a sample, to indicate the types of information that may be withheld from disclosure and the types of information that 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 may 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,



Susan L. Garrison
Assistant Attorney General
Open Government Section

²An amendment to section 552.107 by the 74th legislature applies to records requested after September 1, 1995. Act of May 29, 1995, H.B. 1718, sec. 7, § 552.107(1), sec. 26, 74th leg., R.S. (to be codified at Gov't Code ch. 552) (copies available from House Document Distribution).

SLG/RHS/rho

Ref.: ID# 33523

Enclosures: Marked documents

cc: Mr. Jaime Sanchez
Attorney at Law
El Paso Legal Assistance Society
1220 N. Stanton Street
El Paso, Texas 79902
(w/o enclosures)