



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 12, 1996

Mr. Paul D. Bacon
Attorney for Bilma PUD
1301 Fannin, Suite 2490
Houston, Texas 77002

OR96-0031

Dear Mr. Bacon:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36666. The documents which you submitted have been labeled documents #1-6 for reference.

The Bilma Public Utility District (the "district") received a request for information under the Open Records Act on October 20, 1995. On October 25, 1995, we received your request for an attorney general decision relating to the request for information. In your request for a decision, you state that portions of the requested information "pertain to a pending lawsuit" or are "lawyer-client communications." You did not, however, submit to our office certain information that you are required to submit to us under section 552.301(b). Act of May 29, 1995, 74th Leg., R.S., ch. 1035, § 18, 1995 Tex. Sess. Law Serv. 5127, 5139. Although you submitted six documents to us, we are unable to discern the nature of documents #2-6 because you did not submit written comments stating the reasons why you believe the exceptions you raised apply to the information you seek to withhold. Further, you did not submit copies or representative samples of all the specific information that was requested, labeled to indicate which exceptions apply to the copies or samples.

Pursuant to section 552.303(c) of the Government Code, on November 16, 1995, our office notified you by letter sent via facsimile that you had failed to submit the information required by section 552.301(b). *Id.* § 19, 1995 Tex. Sess. Law Serv. at 5139. We requested that you provide this information to our office within seven days after the date you received our notice. The notice further stated that under section 552.303(e), failure to comply would result in the legal presumption that the requested information is public information.

You did not timely provide our office with the information that was requested in our November 16, 1995 notice to you. Therefore, as provided by section 552.303(e), documents #2-6, as well as all information you did not submit for our review, is presumed to be public information. Information presumed public must be released unless the governmental body demonstrates the existence of a compelling interest that overcomes this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ); Open Records Decision No. 319 (1982). You have not shown compelling reasons why this information should not be released. Consequently, the information is presumed to be public and must be released.

We turn now to a discussion of document #1. Section 552.107(1) excepts information from required public disclosure if it is information that an attorney is prohibited from disclosing under rules of evidence or professional conduct. You state that document #1 is a "privileged communication" between you and your client, the district. Document #1 conveys legal advice and opinions and is therefore excepted from public disclosure under section 552.107.

Finally, you seek guidance on how to proceed with regard to items 2 and 4 of the requestor's inquiry. It is proper for you to require the requestor to identify the documents sought; however, you also must make a good faith effort to relate the request to documents you possess. *See* Open Records Decision No. 561 (1990) at 8. You should advise the requestor of the types of information available so that he may narrow or clarify his request. Even if a governmental body possesses "voluminous files" which are responsive to a specific request, the Open Records Act entitles the requestor to access to all responsive information that is subject to public disclosure.

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 and is not a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/rho

Ref.: ID# 36666

Enclosures: Submitted documents

cc: Mr. Daniel K. Craddock
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(w/o enclosures)