



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 4, 1996

Mr. Roland Castaneda  
General Counsel  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR96-1584

Dear Mr. Castaneda:

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# 100384.

The Dallas Area Rapid Transit Authority ("DART") received an open records request for the "most recent notifications to DART Board members concerning the Texas Supreme Court's decision in Paul Fielding's lawsuit." You state that you have released to the requestor most of the requested document. You seek to withhold, however, pursuant to section 552.107(a) of the Government Code one paragraph that you characterize as "legal advice and opinion from a governmental attorney acting as a legal adviser to the governmental body, the DART Board."

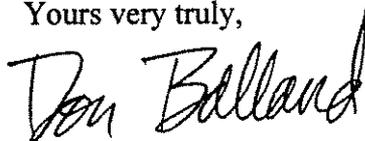
Section 552.107(1) protects information "that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct." *See* Open Records Decision No. 574 (1990). In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney's legal advice to the client and confidential client communications to the attorney. *Id.*

After reviewing the information that you wish to withhold, it is not apparent to this office that the information at issue constitutes the legal opinions of DART's general counsel to the DART Board. Rather, the information at issue appears to consist of both purely factual information that does not consist of a client confidence and the speculations of an

outside attorney who represents DART's former executive director. The information involves a lawsuit to which DART was once, but is no longer, a party. *See generally Fielding v. Anderson*, 911 S.W.2d 858 (Tex. App.--Eastland 1995, writ denied). You have not explained, nor is it apparent to this office, how such communication from an outside attorney to yourself is privileged merely because that information was further passed on to the DART Board in an "update" on the litigation. Accordingly, we conclude that DART may not withhold the information at issue pursuant to section 552.107. This information therefore must be released in its entirety.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/RWP/rho

Ref.: ID# 100384

Enclosures: Submitted document

cc: Mr. Curtis Howell  
Dallas Morning News  
P.O. Box 655237  
Dallas, Texas 75265  
(w/o enclosures)