



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 23, 1997

Ms. Lan P. Nguyen  
Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR97-0142

Dear Ms. Nguyen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103269.

The City of Houston (the "city") received a request for five categories of documents relating to a certain ordinance and the RTC Property Income Fund. You state that the city will release to the requestor most of the requested information. However, you claim that the remainder of the requested information is excepted from disclosure under sections 552.106, 552.107(1), and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. Open Records Decision No. 574 (1990) at 5. We have reviewed Exhibits 3 through 6 and conclude that the city may withhold the highlighted portions of Exhibits 3, 4, and 6 from required public disclosure under section 552.107(1). If the information in Exhibit 5 was disclosed to the representatives of Houston Renaissance, Inc., the city may not withhold that information, as section 552.107(1) is waived by disclosure to persons outside of the attorney-client relationship of the information sought to be withheld. Open Records Decision No. 630 (1994). You have not established, nor is it apparent from the face of the documents, that an attorney-client relationship exists between

the city and Houston Renaissance, Inc.<sup>1</sup> If the information in Exhibit 5 was not disclosed to the representatives of Houston Renaissance, Inc., the city may withhold the highlighted portion of Exhibit 5 under section 552.107(1).<sup>2</sup>

The city claims that the information in Exhibit 9 is excepted from disclosure under section 552.106 of the Government Code. Section 552.106 protects drafts and working papers involved in the preparation of proposed legislation. The purpose of the exception is to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the legislative body and to thereby protect the internal "deliberative" or policy-making processes of a governmental body. Open Records Decision No. 460 (1987). Section 552.106 does not except purely factual material; rather, it excepts only policy judgments, recommendations, and proposals involved in the preparation of proposed legislation. Section 552.106 applies only to drafts and working papers prepared by persons with some official responsibility to prepare them for the legislative body. *Id.* We have reviewed the information in Exhibit 9 and conclude that the city may withhold that information under section 552.106 of the Government Code.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

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Ref.: ID# 103269

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<sup>1</sup>Nor would section 552.111 of the Government Code except the highlighted information in Exhibit 5 from required public disclosure if it was disclosed to the representatives of Houston Renaissance, Inc. Open Records Decision No. 435 (1986).

<sup>2</sup>As we have concluded that pursuant to section 552.107(1), the city may withhold the information the city claims is also excepted from disclosure under section 552.111, with the possible exception of Exhibit 5, we need not now address your claimed section 552.111 exception.

Enclosures: Submitted documents

cc: Mr. David A. Kahne  
Legal Director  
Civil Liberties Foundation  
P.O. Box 66386  
Houston, Texas 77266  
(w/o enclosures)

