



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 3, 1997

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

OR97-0701

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# 104898.

Dallas Area Rapid Transit (DART) received a request for "any memos, letters, documents, notes or tape recordings pertaining to a recent appeal filed by DJ Miller and associates that was filed . . . on or about Nov. 4, 1996 and later forwarded to the DART Board for review." You state that DART has responded to the request and provided some of the requested information, but that the remainder of the responsive information is excepted from disclosure under section 552.107(1) of the Government Code. We have considered your argument and have reviewed the information submitted.

Section 552.107(1) of the Government Code 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 and confidential attorney-client communications. *Id.* However, section 552.107 does not protect purely factual information merely because it is reported by an attorney. Open Records Decision Nos. 574 (1990), 559 (1990) (construing predecessor statute). You have submitted to this office by letter dated March 12, 1997 copies of memoranda with the information you seek to withhold under section 552.107 redacted. After reviewing the information you have redacted, we agree that these portions of the memoranda constitute confidential communications made in the furtherance of the rendition of legal services by the General Counsel to his client, DART, and therefore they may be withheld from disclosure under section 552.107(1).

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,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/ch

Ref.: ID# 104898

Enclosures: Submitted documents

cc: Mr. Curtis Howell  
P.O. Box 855237  
Communications Center  
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(w/o enclosures)