



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 23, 1997

Mr. Robert Dillard, III  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR97-1701

Dear Mr. Dillard:

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# 107580.

The City of Crandall (the "city"), which you represent, received a request for various information related to the fees incurred by the city for legal services between the dates of May 1, 1995 and May 1, 1997. By letter to this office dated May 28, 1997, the requestor clarified that she does "not want to receive any testimony, legal advice, or strategy in any circumstance. I ask only the total amount of monies paid to law firms, including our city attorney, for legal services requested by the City of Crandall." You state that the city will furnish the responsive information from your lawfirm for the requested time period, but assert that the requested information pertaining to another lawfirm is excepted from disclosure pursuant to sections 552.103 and 552.107 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the governing body is or may be a party. The city has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. The city must meet both prongs of this test for information to be excepted under section 552.103(a).

You have submitted an order issued by the State Office of Administrative Hearings in a matter before the Texas Natural Resource Conservation Commission establishing that the city is

involved in pending litigation with an entity of whom the requestor is a member. However, you have not demonstrated how the requested amounts charged for legal fees relate to the pending litigation. Therefore, we conclude you have not met your burden under section 552.103(a) and thus the requested information may not be withheld under this section.

Section 552.107 excepts information from disclosure if:

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 Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct.

Gov't Code § 552.107. 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. *Id.* at 5. Section 552.107(1) does not protect purely factual information. *Id.*

As the requestor seeks only the amounts charged for legal services between specific dates, we conclude that these amounts do not reveal privileged attorney-client information. Therefore, the information may not be withheld under section 552.107(1) and must be released to the requestor.

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# 107580

Enclosures: Submitted documents

cc: Ms. Mary Donaldson  
131 Buffalo Creek  
Crandall, Texas 75114  
(w/o enclosures)