



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 10, 1998

Mr. J. Robert Giddings  
University of Texas System  
Office of General Counsel  
201 W. Seventh Street  
Austin, Texas 78701-2981

OR98-1643

Dear Mr. Giddings:

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# 116524.

The University of Texas System (the "system") received a request for various information. Although you have released some of the information to the requestor, you claim that the remaining information is excepted from disclosure under sections 552.101, 552.107, 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. Section 552.107(1) excepts information from disclosure if:

[I]t 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.

In Open Records Decision No. 574 (1990), this office concluded that section 552.107(1) 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. Section 552.107(1) does not protect purely factual information unless the factual information constitutes a confidence that the client related to the attorney. *See id.* at 5. When invoking this exception, the governmental body bears the burden of explaining how the particular information requested constitutes either a client confidence or a communication of legal

advice or opinion. *See, e.g.*, Open Records Decision No. 589 (1991). We have reviewed the documents submitted with your marked portions. We agree the marked information comes within the ambit of section 552.107. We, therefore, conclude that these records may be withheld pursuant to section 552.107(1).<sup>1</sup>

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,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/nc

Ref.: ID# 116524

Enclosures: Submitted documents

cc: Mr. James A. Hemphill  
George, Donaldson & Ford  
114 W. 7th Street, Suite 1100  
Austin, Texas 78701  
(w/o enclosures)

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<sup>1</sup>As we resolve the issues under section 552.107(1), we need not address the remaining exceptions you assert.