



Office of the Attorney General

State of Texas

September 17, 1998

DAN MORALES
ATTORNEY GENERAL

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

OR98-2220

Dear Ms. Nguyen:

You ask whether certain information is subject to required public disclosure under the Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 118125.

The City of Houston (the "city") received a request for "documents that pertain to legal fees or expenses incurred by [the city] concerning Ordinance No. 97-75 regulating sexually oriented businesses," including those records pertaining to legal fees incurred by city attorneys and outside counsel before federal, state and amortization proceedings. In response to the request, you submit to this office for review the information which you assert is responsive. You seek to withhold, from required public disclosure, the "highlighted portions" of the responsive records pursuant section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.107(1) of the Government Code states that information is excepted from required public 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.

Section 552.107(1) excepts from disclosure communications that reveal client confidences or the attorney's legal opinion or advice. Open Records Decision Nos. 589 at 1 (1991), 574 at 3 (1990), 462 at 9-11 (1987). Section 552.107(1) does not except from disclosure factual recounting of events or the documentation of calls made, meetings attended, and memoranda sent. Open Records Decision No. 574 at 5 (1990). Information in attorney fee bills may be withheld under section 552.107(1) only if it reveals client confidences or attorney advice.

Open Records Decision No. 589 (1991). The application of section 552.107(1) to attorney fee bills must be determined on a case-by-case basis. *Id.*

You have submitted an affidavit signed by Senior Assistant City Attorney Gilbert D. Douglas, in which he asserts that he has reviewed each of the responsive documents consisting of billing and expense records relating to Ordinance No. 97-75. Mr. Douglas' affidavit further states that "[he] has marked for withholding from disclosure only those portions of the descriptions of attorney billing and expenditures directly relating to communications between City attorneys and outside counsel." Because of the voluminous records at issue, to the extent we disagree with your highlighting, we have marked the type of information that cannot be withheld under section 552.107(1) and which must be *released*. The remaining information in Exhibit 2, which you have marked, may be withheld pursuant to section 552.107(1). Please note that we have marked sample documents in Exhibit 2 to show the types of information not made confidential under section 552.107(1). These markings should be used as a guide in applying this open records letter ruling to the remaining documents in Exhibit 2.

We are resolving this matter with this 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 may 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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/mjc

Ref.: ID# 118125

Enclosures: Submitted documents

cc: Ms. Teri Jo Nicholson
505 Teetshorn
Houston, Texas 77009
(w/o enclosures)