



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 10, 1998

Ms. Kelly Fletcher Schurr
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR98-2653

Dear Ms. Schurr:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118547.

The City of Dallas (the "city") received three requests for information about a proposed annexation. You provided the requestors with some information, but assert that other records at issue are protected from disclosure under sections 552.107(1) and 552.111 of the Government Code. You also assert that some records may be protected on the basis of a third party's property interest. Records responsive to the requests were submitted to this office for review.¹

We reviewed Exhibits C-1 and C-2, which contain records for which you assert section 552.107(1). You indicate that some documents are protected from disclosure in their entirety and you indicate that some documents in their entirety, and portions of others as marked by you, are excepted from public disclosure. 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 memos sent. Open Records Decision No. 574 at 5 (1990). We have marked the records to show the information which may be withheld from disclosure under section 552.107(1)²

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 449 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

²You also indicate in later correspondence that you intended to raise section 552.111 for these two exhibits, but we note that the scope of section 552.107 as applied to these documents protects information that also would be protected under section 552.111.

You assert that Exhibits C-3 through C-10 are protected from disclosure under section 552.111 of the Government Code. Section 552.111 excepts interagency and intraagency communications from disclosure only to the extent that they contain advice, opinion, or recommendation for use in the governmental body's policymaking process. Open Records Decision No. 615 at 5 (1993). Section 552.111 does not except from disclosure purely factual information. We have marked the information in these exhibits which may be withheld from disclosure under section 552.111.

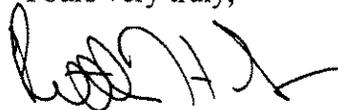
You also submitted to this office Exhibits D-1 and D-2. You explain that D-1 is a proposal from a private consulting firm and that D-2 is a report by city staff which references D-1. You submitted Exhibit E, which indicates that the firm does not want "all nor any part of this study or the identity of the analyst of the firm or any reference to the organization designations" to be released "for public communication" without prior consent of the entity. You identified the Woodbine Development Corporation ("Woodbine") as the entity whose property interests are at issue. We assumed, based on the information provided, that Woodbine might have a section 552.110 interest in Exhibits D and D-1.

Section 552.110 provides an exception for "[a] trade secret or commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision." As provided by section 552.305 of the Open Records Act, this office provided Woodbine the opportunity to submit reasons as to why the records at issue should be withheld pursuant to section 552.110. However, Woodbine did not submit any arguments to this office concerning section 552.110. *See* Open Records Decision No. 363 (1983) (third party has duty to establish how and why exception protects particular information). Thus, these two exhibits may not be withheld from disclosure, except as to the records that are duplicates of records we have marked as protected from disclosure in Exhibits C-1 through C-10.

We have marked the information that is protected on the basis of the arguments presented. The other information 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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 118547

Enclosures: Submitted documents

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