



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 10, 1998

Mr. George F. Christie  
Pope, Hardwicke, Christie, Harrell, Schell & Kelly, L.L.P.  
901 Fort Worth Club Building  
Fort Worth, Texas 76102-4995

OR98-3041

Dear Mr. Christie:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120391.

The Tarrant Regional Water District (the "water district") received a request for "copies of all invoices, statements, billings, charges or fees paid by the Water District for and all goods and services provided to or on behalf of the Water District in connection with" two lawsuits in which the water district was a defendant. You interpret the request as encompassing attorney fee bills and invoices from expert witnesses in their entirety, including the narrative descriptions of services rendered. However, in a letter to this office, the requestor's attorney states that the requestor is only interested in obtaining the following information from the invoices: (1) the date, (2) the person or entity submitting the invoice, statement, billing, etc. and (3) the dollar amount being charged to and/or paid by the Water District for goods and services. Therefore, the narrative descriptions of services rendered are not at issue, and this ruling only addresses the release of the three types of information listed above. You claim that the requested information is excepted from disclosure under sections 552.103, 552.107, and 552.111 of the Government Code.

Section 552.103(a) excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.—Austin 1997, no pet.); *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 at 4 (1990). You have demonstrated that the water district is a defendant in two pending lawsuits. However, you have not explained how the portions of the invoices at issue are related to the pending lawsuits. Therefore, we conclude that the information sought by the requestor is not excepted from disclosure under section 552.103.

Section 552.107(1) protects information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107(1) excepts from public disclosure only "privileged information," that is, factual information or requests for legal advice communicated by the client to the attorney and legal advice or opinion rendered by the attorney to the client. Open Records Decision No. 574 at 5-7 (1990). Section 552.107(1) does not, however, protect purely factual information. *Id.* The information at issue does not reveal client confidences or legal advice or opinion. Thus, the information is not excepted from disclosure under section 552.107(1).

Finally, you contend that the information at issue is attorney work product. A governmental body may withhold attorney work product from disclosure under section 552.111 if it demonstrates that the material was 1) created for trial or in anticipation of civil litigation, and 2) consists of or tends to reveal an attorney's mental processes, conclusions and legal theories. Open Records Decision No. 647 (1996). The first prong of the work product test, which requires a governmental body to show that the information at issue was created in anticipation of litigation, has two parts. A governmental body must demonstrate that 1) a reasonable person would have concluded from the totality of the circumstances surrounding the investigation that there was a substantial chance that litigation would ensue, and 2) the party resisting discovery believed in good faith that there was a substantial chance that litigation would ensue and conducted the investigation for the purpose of preparing for such litigation. Open Records Decision No. 647 at 4 (1996). The second prong of the work product test requires the governmental body to show that the documents at issue tend to reveal the attorney's mental processes, conclusions and legal theories. Although the information at issue may have been created in anticipation of civil litigation, it does not tend to reveal an attorney's mental processes, conclusions, or legal theories. For this reason, we conclude that the information is not excepted from disclosure under section 552.111 as attorney work product.

In conclusion, the water district must release the following information from the invoices to the requestor: the date of the invoice, the person or entity who submitted the invoice to the water district, and the amount charged for goods or services. This information is not excepted from disclosure. The requestor is not seeking disclosure of the narrative descriptions of services rendered, and therefore we do not rule on the disclosure of these sections of the invoices.

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,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 120391

Enclosures: Submitted documents

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