

January 12, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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JOHN CORNYN
Attorney General

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Mr. Michael R. Hull
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR99-0083

Dear Mr. Hull:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121015.

Harris County (the "county") received a request for information relating to a tree located in the 1000 block of Success Lane, in Harris County. You relate that you have supplied most of the responsive information, but seek to withhold a legal memorandum drafted by the office of the Harris County Attorney. You contend that this letter is attorney work product, excepted from public disclosure by sections 552.101, 552.107 and 552.111 of the Government Code. You have supplied the respective document and argument supporting your position. We have considered the exception you claim and have reviewed the documents at issue.

You correctly note that the exception to disclosure afforded by section 552.107 of the Government Code applies more specifically to attorney work product than does that of section 552.101. Further, since section 552.111 generally protects only advice, opinion, and recommendations, any protection under section 552.111 will usually be no greater or less than the protection offered under section 552.107. *See* Open Records Decision No. 574 at 2 (1990). Hence, we will address your request under section 552.107 of the Government Code.

Section 552.107(1) excepts 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 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. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.*

In conformity with the above discussion, we have marked the subject document to indicate information that may be withheld pursuant to Government Code section 552.107. The portion that we have bracketed in black must be released, the remainder may be withheld.

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 J. Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 121015

Enclosures: Submitted documents

cc: Mr. John W. Clinton, Jr.
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(w/o enclosures)