



April 23, 1999

Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR99-1092

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123715.

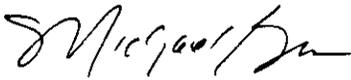
The Department of Transportation (the “department”) received a request for “your file on Camino Colombia, Inc.” You indicate that you have supplied the requestor with most of the responsive information, however you seek to withhold an internal memorandum. You contend that the subject information is excepted from public disclosure by section 552.101 of the Government code in conjunction with the attorney-client privilege. We have considered the exception you claim and have reviewed the documents at issue.

Although you claim that section 552.101 excepts the subject information from disclosure pursuant to the attorney-client privilege, the attorney-client privilege is more properly claimed under section 552.107. Open Records Decision No. 574 at 2 (1990). 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.* We find that the submitted document was prepared by an attorney and reveals the attorney's legal advice or opinions expressed to his client, the department. Therefore, this document may be withheld under section 552.107 of the Government Code.

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.

Sincerely,



Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 123715

encl. Submitted documents

cc: Ms. Judy Anderson
Bankston & Richardson
701 Brazos, Suite 1500
Austin, Texas 78701
(w/o enclosures)