



August 4, 1999

Mr. Bill Jones
Cash, Jones & Springhetti, L.L.P.
Chase Tower
600 Travis, Suite 6710
Houston, Texas 77002

OR99-2196

Dear Mr. Jones:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126588.

The Park Board of Trustees of the City of Galveston (the "board"), which you represent, received a request for "invoices and supporting documentation relating to legal services provided by Bill Jones." You claim that the requested information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.103(a) excepts from disclosure information:

- (1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and
- (2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990).

You explain that the board is currently in litigation with Bettah Beach Productions, Inc. Thus, you have shown that litigation is pending. We have reviewed the submitted information and conclude that the descriptions of professional services provided relate to the pending litigation. Accordingly, you may withhold the descriptions under section 552.103. However, you have not shown how the remaining information, including the dates, expenses, hours, and amounts charged for services relate to the pending litigation. Therefore, this remaining information may not be withheld under the litigation exception.

We next address whether the attorney-client privilege or the work product privilege applies to the remaining information not excepted by section 552.103. Section 552.107 excepts information from disclosure if:

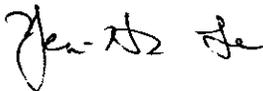
it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct.

Gov't Code § 552.107. 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. Section 552.107(1) does not protect purely factual information. *Id.*

A governmental body may withhold attorney work product from disclosure 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). We conclude you have not demonstrated how the remaining information is privileged information. Therefore, you may not withhold the requested information under section 552.107(1) or as attorney work product.

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 any questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref: ID# 126588

Encl.: Marked documents

cc: Mr. Carter Thompson
Reporter
The Galveston County Daily News
8522 Teichman
Galveston, Texas 77554
(w/o enclosures)