



November 16, 1999

Ms. Kristi DeCluitt
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR99-3275

Dear Ms. DeCluitt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129444.

The City of College Station (the "city") received a request for documents relating to a proposed city landfill project.¹ You originally claimed that the requested information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. However, in subsequent correspondence submitted to our office, you indicated that the city no longer reasonably anticipates litigation and therefore you have withdrawn your section 552.103 claim. Therefore, we will consider your section 552.107 claim only, and have examined the documents at issue.

You claim that Exhibits B-1 and B-4 are excepted from disclosure pursuant to Government Code section 552.107.² 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

¹You refer to the request as PWKMM Request No. 13.

²We assume that you have released Exhibits B-2, B-3, B-5 and B-6 after having withdrawn your claim under Government Code section 552.103.

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. Open Records Decision No. 574 at 5 (1990). Section 552.107(1) does not except purely factual information from disclosure, nor does it protect information gathered by an attorney as a fact-finder. Open Records Decision Nos. 574 (1990), 559 (1990), 462 (1987). Section 552.107(1) does not except from disclosure a factual recounting of events or the documentation of calls made, meetings attended, and memoranda sent. Open Records Decision No. 574 at 5 (1990). We have reviewed Exhibit B-1 and agree that portions of the information may be withheld pursuant to section 552.107. For your convenience, we have marked the information that may be withheld. The remaining information in Exhibit B-1 is factual in nature and must be released.

The first page of Exhibit B-4 contains neither legal advice nor the opinion of an attorney. Instead, it provides only factual information. Thus, the first page of Exhibit B-4 is not excepted under section 552.107 and must be released. Additionally, the second page of Exhibit B-4 is a contract for services. The 76th Legislature amended section 552.022 of the Government Code to make certain information expressly public, and therefore not subject to discretionary exceptions to disclosure. Act of May 25, 199, 76th Leg., R.S., ch. 1319, § 5, 1999 Tex. Sess. Law Serv. 4500, 4501-4502 (Vernon) (to be codified as an amendment to Gov’t Code § 552.022). Section 552.022 now states in relevant part:

- (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and are not excepted from required disclosure under this chapter unless they are expressly confidential under other law.

One category of public information under section 552.022 is “information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body.” Gov’t Code § 552.022(a)(3). Here, the second page of Exhibit B-4 is a contract related to the expenditure of public funds. This information is made public by section 552.022(a)(3) and is not confidential by law. Therefore, section 552.107 does not except this information from disclosure and it must be released pursuant to Government Code section 552.022(a)(3).

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,



Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/cwt

Ref: ID# 129444

Encl. Submitted documents

cc: Mr. C. J. Kling
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P.O. Box 6900
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(w/o enclosures)