Office of the Attorney General · State of Texas
John Cornyn

November 29, 1999

Mr. Michael Scanlon
Bickerstaff, Heath, Smiley, Pollan,
Keever & McDaniel, L.L.P.
3000 Bank One Center
1717 Main Street
Dallas, Texas 75201-4335

OR99-3411

Dear Mr. Scanlon:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 129780.

The City of Princeton (the "city"), which you represent, received a written request for records pertaining to 1) "complaints filed or received against the City of Princeton, or any of its departments from June 1, 1999 to date of response," 2) "any contract labor employed by the city council or any city administrator," and 3) the city's policy "regarding response to Open Records Act requests." The requestor also seeks documents "released to or received by any person not employed by the City of Princeton that was not made pursuant to a formal Open Records Act Request" and "[a]ny Open Records Request received by the City of Princeton, including the date of the request and that date of response or referral." You have informed the requestor that many of the requested documents will be made available. You contend, however, that certain communications between the city and its attorneys are excepted from required public disclosure pursuant to section 552.107(1). You have submitted to this office as responsive to the request a representative sample of the documents at issue, and have highlighted those documents, or the portions thereof, to indicate the types of information you seek to withhold.[1]

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. *See* Open Records Decision No. 574 (1990). In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an

[1]Among the documents you seek to withhold are the city's attorney billing statements from June 1999. It has been suggested that the city has previously released these documents to another individual. If such is the case, no portion of those documents may now be withheld from the current requestor. *See* Gov't Code § 552.007 (prohibiting "selective disclosure").

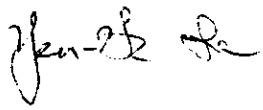
attorney's legal advice and client confidences. *Id.* In Open Records Decision No. 574, this office conclude that

> [i]n general, the attorney's mere documentation of calls made, meetings attended, or memos sent is not protected under [the statutory predecessor to section 552.107(1)], if no notes revealing the attorney's legal advice or the client's confidences are included. Such documentation simply does not embody attorney-client communication.

Open Records Decision No. 574 at 7. *See also* Open Records Decision No. 589 (1991). After reviewing the information at issue, we agree that much of the information you have highlighted is protected by the attorney-client privilege and thus may be withheld pursuant to section 552.107(1). We have marked with brackets on some of the pages the information protected by section 552.107(1); the remaining information contained on those pages must be released to the requestor. We have also marked several pages that must be released in their entirety. Otherwise, where we have made no notations, all of the highlighted information may be withheld.[2]

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/RWP/ljp

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[2]In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office. Please note that we also identified a small amount of information, which we have marked, that the city must withhold pursuant to common-law privacy. *See generally Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

Ref.: ID# 129780

Encl: Marked Documents

cc: Ms. Linda D. Risinger
Attorney and Counselor
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Plano, Texas 75074
(w/o enclosures)