



May 17, 2000

Mr. Christopher B. Gilbert  
Bracewell & Patterson  
711 Louisiana, Suite 2900  
Houston, Texas 77002-7781

OR2000-1963

Dear Mr. Gilbert:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135595.

The Hamshire-Fannett Independent School District (the "district"), which you represent, received two requests for information from two different requestors, the first of which seeks "board travel and legal expenses from Sept. 99 - present."<sup>1</sup> The second requestor seeks several categories of information, including "attorney's fees back through July 1999."<sup>2</sup> You have provided for our review check copies, correspondence, purchase orders, and attorney fee bills from August 1999 to March 2000. You have marked for redaction certain information contained in the attorney fee bills, which you assert is subject to the attorney-client privilege and therefore is excepted from disclosure under section 552.107 of the Government Code.

We note at the outset that check copies, correspondence, and purchase orders contain no markings for redaction of any of the information contained therein. Additionally, you have made no arguments for withholding any of these documents, or for withholding any of the information contained in these documents. Nevertheless, you have submitted these documents for our review along with the documents which, you assert, contain information

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<sup>1</sup>You state that "'board travel expenses' are not at issue" and are not made part of your request for a decision from this office. We therefore assume that you have released this information to the requestor.

<sup>2</sup>You assert no exceptions and make no arguments for withholding the other categories of information that were requested. We therefore assume that you have released this information to the requestor. See Gov't Code §§ 552.301, .302.

that is excepted from required public disclosure. You have not advised this office that the check copies, correspondence, or purchase orders have been released to the requestors. We therefore assume that the check copies, correspondence, and purchase orders have not yet been released.

We note that a governmental body has a duty to promptly release public information under the Public Information Act (the "Act"). *See* Open Records Decision No. 664 (2000). Moreover, a governmental body is required to release the information and may not seek a decision from this office when the governmental body has identified the requested information and reasonably believes that it is not subject to one of the Act's exceptions to required public disclosure. *See* Open Records Decision No. 665 (2000). Therefore, in the future, you should submit for our review only those documents that contain information that you reasonably believe is excepted from required public disclosure, and you should promptly release to the requestor any other responsive information. As to the attorney fee bills, we have considered the exception you assert and reviewed the information you have marked.

Section 552.107(1) 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(1). 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.* The attorney general explicitly found that a governmental body may withhold information in an attorney fee bill only to the extent that the information reveals client confidences or the attorney's legal advice. *See* Open Records Decision No. 589 (1991). Moreover, in Open Records Decision No. 589, the attorney general determined that the "attorney-client privilege" exception did not protect a requested list of "phone calls and conferences regarding a particular matter" or indications that an attorney had reviewed documents relevant to the attorney's representation of the government body. Based on your arguments and representations, we find that most of the information you have marked and that is contained in the requested fee bills is privileged under section 552.107(1). We have marked the information that you may withhold. The remaining information in the fee bills must be released. You must also release the check copies, correspondence, and purchase orders.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael Garbarino  
Assistant Attorney General  
Open Records Division

MG/ljp

Ref: ID# 135595

Encl. Submitted documents

cc: Ms. Donna Swenson  
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