



August 7, 2000

Mr. Madison Jechow  
Associate General counsel  
Lower Colorado River Authority  
P.O. Box 220  
Austin, Texas 78767-0200

OR2000-2971

Dear Mr. Jechow:

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# 137789

The Lower Colorado River Authority ("LCRA") received a request for copies of various correspondence between certain public officials or private individuals and LCRA Board members or their staff for a certain time period. You claim that one responsive document is excepted from disclosure under section 552.107(1) of the Government Code.<sup>1</sup>

Under the attorney general's current interpretation of section 552.107(1), the exception essentially incorporates the attorney-client privilege of the Texas Rules of Evidence. *See* Open Records Decision No. 574 (1990), Tex. R. Evid. 503. Section 552.107(1) generally applies to two distinct communications: 1. confidential client communications; and 2. communications of legal advice or opinion. ORD 574.

You state that the document at issue is "a summary of a proposed agreement between the LCRA and Dripping Springs Water Supply, prepared by Madison Jeshow, Associate General Counsel for the LCRA, for a member of the LCRA's Board of Directors." You argue that the document is an attorney's legal opinion in that it documents an attorney's interpretation of the proposed agreement and an attorney's belief as to what is relevant in the proposed agreement.

We have reviewed the submitted information and agree that the document consists of attorney advice. Accordingly, we conclude that the LCRA may withhold the document from the requestor based on section 552.107(1) of the Government Code.

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

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<sup>1</sup>We assume that the LCRA has released to the requestor all other responsive information, if any. *See* Gov't Code § 552.221 (requiring prompt release of requested information), Open Records Decision No. 664 (2000).

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,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KHH/pr

Encl. Submitted document

Ref: ID# 137789

cc: Mr. Rob D Amico  
1706 Goodnight Lane  
Austin, Texas 78757  
(w/o enclosures)