



August 31, 2000

Mr. Randall B. Strong  
Attorney at Law  
1515 N. Alexander, Suite 306  
Baytown, Texas 77520

OR2000-3375

Dear Mr. Strong:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#140363.

The City of Webster (the "city"), which you represent, received a request for three different letters or memoranda, as well as a tape of a City Council meeting. You inform us that all of the requested information, except a portion of a memorandum dated June 6, 2000 from yourself to the acting City Manager, Jim Williams, has been provided to the requestor. You assert that the redacted portion of the memorandum is excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

First, we note that the request for the May 15, 2000 memorandum was the subject of Open Records Letter No. 2000-3224 (2000). You may withhold that memorandum in accordance with ORL2000-3224.

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 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. ORD 574 at 5. Upon review of the information submitted, we conclude that the portion you have underlined in Exhibit B reflects an attorney's advice or opinion, and it may therefore be withheld from the requestor under section 552.107.

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 A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/ljp

Ref: ID# 140363

Encl. Submitted documents

cc: Ms. Teresa Shamma  
611 Packer Court  
Webster, Texas 77958  
(w/o enclosures)