



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 1, 2009

Mr. John A. Kazen
Kazen, Meurer & Pérez, L.L.P.
P.O. Box 6237
Laredo, Texas 78042-6237

OR2009-13819

Dear Mr. Kazen:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 357019.

The Laredo Independent School District (the "district"), which you represent, received a request for all billing information from a specified law firm for services rendered to the district regarding a specified lawsuit. You claim portions of the submitted information are excepted from disclosure under rule 503 of the Texas Rules of Evidence. We have considered your arguments and reviewed the submitted information.¹

The submitted information consists of attorney fee bills. As you acknowledge, attorney fee bills are subject to section 552.022(a)(16) of the Government Code, which provides that information in a bill for attorney's fees must be released unless it is privileged under the attorney-client privilege or is expressly confidential under other law. *See Gov't Code*

¹You indicate the submitted information is a representative sample of the responsive information. We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 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.

§ 552.022(a)(16). You assert portions of the information within the responsive attorney fee bills are privileged under the attorney-client privilege of rule 503 of the Texas Rules of Evidence. The Texas Supreme Court has held that the Texas Rules of Evidence are “other law” within the meaning of section 552.022. *See In re City of Georgetown*, 53 S.W.3d 328, 336 (Tex. 2001). Therefore, we will consider your arguments under rule 503.

Texas Rule of Evidence 503 provides in relevant part:

A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client:

(A) between the client or a representative of the client and the client’s lawyer or a representative of the lawyer;

(B) between the lawyer and the lawyer’s representative;

(C) by the client or a representative of the client, or the client’s lawyer or a representative of the lawyer, to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein;

(D) between representatives of the client or between the client and a representative of the client; or

(E) among lawyers and their representatives representing the same client.

TEX. R. EVID. 503(b)(1). A communication is “confidential” if not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication. *Id.* 503(a)(5).

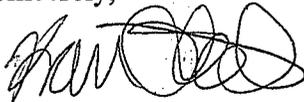
Thus, in order to withhold information from disclosure under rule 503, a governmental body must: (1) show that the document is a communication transmitted between privileged parties or reveals a confidential communication; (2) identify the parties involved in the communication; and (3) show that the communication is confidential by explaining that it was not intended to be disclosed to third persons and that it was made in furtherance of the rendition of professional legal services to the client. Upon a demonstration of all three factors, the information is privileged and confidential under rule 503, provided the client has not waived the privilege or the document does not fall within the purview of the exceptions to the privilege enumerated in rule 503(d). *See Pittsburgh Corning Corp. v. Caldwell*, 861 S.W.2d 423, 427 (Tex. App.—Houston [14th Dist.] 1993, no writ).

You state portions of the responsive information reveal confidential communications between and among district employees and attorneys for the district. You represent these communications were made for the purpose of facilitating the rendition of professional legal services to the district. You have identified some of the parties involved in these communications. You also state these communications were not intended to be disclosed to third parties. Based on your representations and our review, we conclude the district may withhold the information we have marked on the basis of the attorney-client privilege under Texas Rule of Evidence 503. However, the remaining information either does not consist of communications made for the purpose of facilitating the rendition of legal services, or consists of communications between individuals whose capacities and relationships you have not described. Thus, you have not demonstrated how any of the remaining information constitutes privileged attorney-client communications. Accordingly, the district may not withhold any of the remaining information under rule 503. As you raise no other arguments against disclosure, the district must release the remaining information in the attorney fee bills to the requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Karen E. Stack
Assistant Attorney General
Open Records Division

KES/jb

Ref: ID# 357019

Enc. Submitted documents

c: Requestor
(w/o enclosures)