



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 19, 2011

Ms. Jessica L. Saldivar  
Assistant General Counsel  
Office of General Counsel  
Houston Community College  
3100 Main Street  
Houston, Texas 77002

OR2011-18646

Dear Ms. Saldivar:

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# 439436.

Houston Community College (the "college") received a request for an unredacted copy of an invoice for April of 2009 submitted to the college by a named law firm. You claim that portions of the submitted information are excepted from disclosure under section 503 of the Texas Rules of Evidence. We have considered the exception you claim and reviewed the submitted information.

As you note, the submitted information is subject to section 552.022(a)(16) of the Government Code, which provides in relevant part:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege[.]

Gov't Code § 552.022(a)(16). The submitted information consists of attorney fee bills which must be released pursuant to section 552.022(a)(16) unless they are made confidential by the Act or "other law." 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). We will, therefore, consider your attorney-client privilege claim under rule 503 of the Texas Rules of Evidence for the submitted information.

Rule 503 of the Texas Rules of Evidence enacts the attorney-client privilege. Rule 503(b)(1) provides as follows:

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). When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. *See* ORD 676 at 6-7. Thus, in order to withhold attorney-client privileged 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). *Pittsburgh Corning Corp. v. Caldwell*, 861 S.W.2d 423, 427 (Tex. App.—Houston [14th Dist.] 1993, no writ).

You seek to withhold the information you have marked within the fee bills as privileged attorney-client communications. You assert the information you have marked consists of confidential communications made for the purpose of facilitating the rendition of professional legal services to the college and that the communications have remained confidential. Although you have not identified the parties to the communications, we are able to discern the identities of some privileged parties from the submitted documents. Based on your representations and our review, we conclude the information we have marked may be withheld under rule 503 of the Texas Rules of Evidence. However, the remaining information you marked in the submitted fee bills either reveals a communication with a party who is not identified as privileged or does not reveal a communication. Because you failed to provide this office with the necessary facts to demonstrate the elements of the attorney-client privilege with respect to the remaining information you have marked, this information is not privileged under rule 503, and the college may not withhold it on that basis.

In summary, the college may withhold the information we marked under rule 503 of the Texas Rules of Evidence. The college must release the remaining information.

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](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,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/eb

Ref: ID# 439436

Enc. Submitted documents

c: Requestor  
(w/o enclosures)