



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 4, 2012

Mr. Charles Galindo Jr.
Assistant Attorney General
Assistant Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2012-15835

Dear Mr. Galindo:

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# 467147 (PIR No. 12-33932).

The Office of the Attorney General (the "OAG") received a request for information concerning cause number GV-203730. The OAG released some information and claims the remainder is excepted from disclosure under sections 552.107 and 552.111 of the Government Code. We have considered the exceptions the OAG claims and reviewed the submitted information.

Section 552.111 excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." Gov't Code § 552.111. Section 552.111 encompasses the attorney work product privilege in rule 192.5. *City of Garland v. Dallas Morning News*, 22 S.W.3d 351, 360 (Tex. 2000); Open Records Decision No. 677 at 4-8 (2002). Section 552.111 protects work product as defined in rule 192.5(a) as:

(1) material prepared or mental impressions developed in anticipation of litigation or for trial by or for a party or a party's representatives, including the party's attorneys, consultants, sureties, indemnitors, insurers, employees, or agents; or

(2) a communication made in anticipation of litigation or for trial between a party and the party's representatives or among a party's representatives,

including the party's attorneys, consultants, sureties, indemnitors, insurers, employees or agents.

TEX. R. CIV. P. 192.5(a). A governmental body seeking to withhold information under the work product aspect of section 552.111 bears the burden of demonstrating the information was created or developed for trial or in anticipation of litigation by or for a party or a party's representative. *Id.*; ORD 677 at 6-8. The test to determine whether information was created or developed in anticipation of litigation is the same as that discussed above concerning rule 192.5. Again, if a requestor seeks an attorney's entire litigation file and a governmental body demonstrates the file was created in anticipation of litigation, we will presume the entire file is protected from disclosure as attorney work product. ORD No. 647 at 5 (1996) (citing *Valdez*, 863 S.W.2d 458, 461) (organization of attorney's litigation file necessarily reflects attorney's thought processes).

The OAG states its Bankruptcy and Collections Division has a pending collections case that it is handling on behalf of its client, the Texas Ethics Commission, and asserts it created the information at issue in anticipation of or for said litigation. Based on the OAG's representation and our review, we conclude the OAG may withhold the information as attorney work product under section 552.111 of the Government Code.¹

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

¹As our ruling is dispositive, we need not address the OAG's section 552.107 argument.

Ref: ID# 467147

Enc: Marked documents

c: Requestor
(w/o enclosures)