



LEGAL

**VIA E-FILE SYSTEM**

June 21, 2020

Honorable Ken Paxton  
Attorney General of Texas  
ATTN: Mr. Justin Gordon, Division Chief  
Open Records Division  
300 West 15<sup>th</sup> Street  
Austin, Texas 78711-2548

Re: ***Request for Information from Lisa Marie Coppoletta – City File No. W008748***

Dear Mr. Gordon:

The City of San Marcos (“City”) received a request for information from Lisa Marie Coppoletta (“Requestor”) on June 8, 2021. The request for information that was submitted to the City’s online public information system is attached as ***Exhibit A***. This request for a ruling is being timely submitted to your office pursuant to Section 552.301(a) of the Texas Public Information Act (“Act”). The City has released several documents to the Requestor in response to the request, but believes one email that is responsive to the request is confidential pursuant to Sections 552.107 and 552.101 of the Act. The confidential attorney/client privileged email is attached as ***Exhibit B***. The title/position of each individual copied on the email is enclosed as ***Exhibit C***.

**SECTION 552.107: CERTAIN LEGAL MATTERS**

Section 552.107 of the Act provides that information is excepted from required public disclosure if:

- (1) *it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct; or*
- (2) a court by order has prohibited disclosure of the information.

In this case, release of the email would disclose communications from an attorney in the City Attorney’s Office to city officials and staff to offer legal advice. Such a release would constitute an unauthorized waiver of the attorney/client privilege. Pursuant to Section 2.375 of the San Marcos City Code, a waiver of the attorney/client privilege can occur only upon the approval by the majority vote of the entire membership of the San Marcos City Council at a public meeting.

The San Marcos City Council has not voted to waive the City's attorney/client privilege with regard to the legal advice contained in ***Exhibit B***. It would be a violation of the attorney's obligations under the Texas Rules of Disciplinary Conduct, specifically Rule 1.05, to disclose the legal advice contained in ***Exhibit B***. The comment contained in the email was intended to be confidential and protected by the attorney/client privilege.

#### **SECTION 552.101: CONFIDENTIAL INFORMATION**

Section 552.101 of the Act excepts from required public disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. In addition to Section 552.107(a), the attorney/client privileged information in this case is also excepted as confidential under section 552.101 because it is confidential under the Texas Rules of Evidence and the Texas Rules of Disciplinary Conduct. *See In re City of Georgetown*, 53 S.W.3d 328 (Tex. 2001).

#### **CONCLUSION**

Thank you very much for your consideration of the City's request for a ruling on this matter. The City respectfully seeks a ruling allowing the City to withhold the email. Please do not hesitate to contact me at (512) 393-8150 if you have any questions.

Sincerely,

*Jacqueline Cullom*

Jacqueline Cullom  
Assistant City Attorney

Enclosures  
c: Requestor (without enclosures)

# Attorney Client Privileged-LMC

Final Audit Report

2021-06-21

|                 |   |
|-----------------|---|
| Created:        | 2021-06-21                                    |
| By:             | Lucia Cordova (LCordova@sanmarcostx.gov)      |
| Status:         | Signed  |
| Transaction ID: | CBJCHBCAABAAAd8K7eIODARHsMCwCzTi__yl5W5x2K8Tk |

## "Attorney Client Privileged-LMC" History



Document created by Lucia Cordova (LCordova@sanmarcostx.gov)

2021-06-21 - 2:26:28 PM GMT- IP address: 66.90.243.129



Document emailed to Jacqueline Cullom (JCullom@sanmarcostx.gov) for signature

2021-06-21 - 2:27:08 PM GMT



Email viewed by Jacqueline Cullom (JCullom@sanmarcostx.gov)

2021-06-21 - 2:33:23 PM GMT- IP address: 45.41.142.96



Document e-signed by Jacqueline Cullom (JCullom@sanmarcostx.gov)

Signature Date: 2021-06-21 - 2:33:40 PM GMT - Time Source: server- IP address: 24.155.188.114



Agreement completed.

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