



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 19, 1994

Ms. Karen R. Johnson
Executive Director
State Bar of Texas
P. O. Box 12487
Austin, Texas 78711

OR94-455

Dear Ms. Johnson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 23727.

The requested information includes a video recording of a grievance committee hearing and memoranda, correspondence, and other documents considered by the State Bar of Texas in connection with its ultimate decision to file a disciplinary action against Thomas Rocha, Jr. The disciplinary action is now pending in the District Court of Bexar County.

You inform us that Thomas Rocha, Jr., has sought discovery of these requested records by means of a request for production of documents in the Bexar County lawsuit and that the district court has sustained the bar's objections and denied the request for production of these records. You contend that these requested records therefore may be withheld from the public pursuant to section 552.103(a) of the Government Code. To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a). The requested records therefore may be withheld.

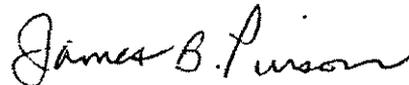
¹The Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

In reaching this conclusion, however, we assume that Mr. Rocha has not previously had access to the records at issue. In the absence of special circumstances, once information has been obtained by all parties to the litigation, for example, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If Mr. Rocha has seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Section 552.103 permits you to withhold all the records you seek to withhold; therefore, we need not consider the other exceptions you have raised.

Because case law and prior published open records decisions resolve your request, we are concluding this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



James B. Pinson
Assistant Attorney General
Open Government Section

JBP/KKO/sbm

Ref.: ID# 23727

cc: Mr. Louis T. Rosenberg, P. C.
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