



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 7, 1995

Mr. J. Michael Stephans
Administrator
Medical Center Hospital
P.O. Drawer 7239
Odessa, Texas 79760

OR95-1378

Dear Mr. Stephans:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36403.

The Medical Center Hospital (the "hospital") received an open records request for *various contracts and records of attorneys fees owed or paid by the hospital in connection with a certain lawsuit in which the hospital is a defendant*. You inform this office that none of the requested contracts exist. Accordingly, the hospital need not comply with those particular portions of the request. *See* Open Records Decision No. 445 (1986).

You have submitted to this office as responsive to the request copies of attorney billing statements¹ and other records showing payment of attorney fees. You contend these records are excepted from public disclosure by section 552.103 of the Government Code. To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 (1991) at 1.

¹This office has received correspondence from the requestor making clear that he seeks only information reflecting the amounts of the attorney fees. Accordingly, this ruling does not address whether any of the remaining information contained in the billing statements is subject to required public disclosure.

In Open Records Decision No. 222 (1979), this office stated that the predecessor statute to section 552.103 does not apply where there is no showing of a direct relationship between the information sought and the pending or contemplated litigation. Although you have submitted to this office a copy of the plaintiff's petition, which reflects that the plaintiff is seeking, among other things, his attorney fees, you have failed to argue or otherwise demonstrate that the attorney fees incurred by the hospital are in any way at issue in the litigation. We therefore conclude that you have failed to meet your burden in demonstrating that the requested information "relates" to the pending litigation. Accordingly, section 552.103 is inapplicable and the hospital must release this information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Records Division

MAR/RWP/rho

Ref.: ID# 36403

Enclosures: Submitted documents

cc: Mr. Gerald K. Fugit
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(w/o enclosures)