



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 21, 1995

Mr. Nathan B. Rheinlander  
Comal County Attorney  
150 North Seguin, Suite 318  
New Braunfels, Texas 78130-5113

OR95-1556

Dear Mr. Rheinlander:

You have asked 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# 29578.

The Comal County Water Oriented Recreation District (the "district") received a request for the following:

- (1) A copy of the resolution or minutes at which the district directors or the commissioner's court authorized the hiring of the law firm Bickerstaff, Heath & Smiley to intervene in the lawsuit titled "Jane Abbott v. State of Texas."
- (2) A copy of Comal County and the district's response to a court order in that lawsuit.
- (3) A copy of a modification of the district's by-laws.

You contend that this information is excepted from disclosure pursuant to section 552.103(a) of the Government Code. To show the applicability of section 552.103(a), a governmental entity must show that the information at issue is related to pending or reasonably anticipated litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e); Open Records Decision No. 551 (1990).

You submitted to this office information showing that the district is involved in a pending lawsuit. You also submitted to this office for review records that you state are responsive to the request for information. However, we note that you did not submit to

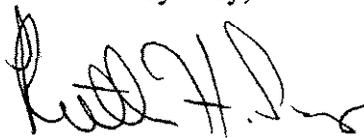
this office a copy of the requested resolution or minutes. The district has a seven member board that holds public meetings. Local Gov't Code §§ 324.041, .046.<sup>1</sup> Assuming that the district has a resolution or the minutes from a public meeting that are responsive to the request, this information must be disclosed to the requestor. See Gov't Code § 552.022(4); Open Records Decision No. 221 (1979) at 1 ("official records of the public proceedings of a governmental body are among the most open of records").

You submitted as responsive to the request a letter to the 201st Judicial District Court concerning an order issued from that court, with a copy sent to the district clerk. Pleadings and other documents that have been filed with the court and/or released to the other party in litigation may not be withheld from disclosure under section 552.103(a). Open Records Decision No. 525 (1989) at 4.

You also provided this office the first page only of a draft copy of by-laws for the district. Our review indicates that the draft by-laws are related to the pending litigation. If by-laws were adopted by the district, the adopted by-laws must be released to the requestor. Open Records Decision No. 221 (1979) at 1. If the only document the district has that is responsive to the request is a draft copy of by-laws that has not been disclosed at a public meeting during the pendency of the litigation, the draft document may be withheld from disclosure under section 552.103(a). However, if the opposing parties have already had access to the draft by-laws, no section 552.103(a) interest exists with respect to that information. Open Records Decision No. 349 (1982). We note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982).

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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>The commissioner's court appoints the members and also has the authority to dissolve the district on its own motion. Local Gov't Code §§ 342.046, .124.

Ref.: ID# 29578

Enclosures: Submitted documents

cc: Ms. Lois M. Duggan  
Mr. Wallace M. Greene  
HC 4, Box 199  
Canyon Lake, Texas 78133  
(w/o enclosures)