

January 27, 1999

Mr. Mark Walker
Attorney
Lower Colorado River Authority
P.O. Box 220
Austin, Texas 78767-0220



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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OR99-0248

Dear Mr. Walker:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121449.

The Lower Colorado River Authority ("LCRA") received a request from the Hill Country Heritage Association for the following information:

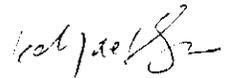
1. A list of federal, state and corporate grants received or pending to the LCRA.
2. All contractual agreements associated with the above grants.
3. Copies of all records pertaining to the LCRA purchase of the Lometa water system.
4. Copies of all records pertaining to the past LCRA proposals to purchase and/or manage systems owned by the City of San Saba..
5. Copies of all records pertaining to the past LCRA proposals to purchase and/or manage systems owned by the City of Llano.
6. Copies of all records pertaining to a lawsuit filed against the LCRA by the City of Lampasas regarding the Lometa water system.
7. A list of all lawsuits filed against the LCRA during the past five years to include the names of each plaintiff and a brief summary of each grievance.
8. Copies of all documents pertaining to the LCRA suitability Development program.

LCRA contends that a portion of the responsive information is excepted from disclosure by section 552.103 of the Government Code. As you have raised no exception for disclosure for the balance of the responsive information, we assume that you have, or will, release such information as existed at the time of the request. You have attached the information you seek to withhold. We have considered the exception you claim and have reviewed the submitted documents.

Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state or a political subdivision is or may be a party. The governmental body claiming this exception has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that 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 at 4 (1990). You must meet both prongs of this test for information to be excepted under section 552.103(a). Whether litigation is reasonably anticipated must be determined on a case-by-case basis. Open Records Decision No. 452 at 4 (1986). You have supplied a copy of a petition filed against LCRA in the case styled *City of Lampasas v LCRA and the City of Lometa*, filed under cause number 13,562 in the District court of Lampasas County, which you contend relates to the subject information. In communication with that court it was determined that this suit was concluded by a non-suit filed July 28, 1998. 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). Therefore, the information may not be withheld pursuant to section 552.103.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 121449

Enclosures: Submitted documents

cc: Mr. Michael Leamons
Vice President
Hill Country Heritage Association
P.O. Box 528
Mason, Texas 76856
(w/o enclosures)