



November 1, 1999

Mr. William P. Chesser
City Attorney
City of Brownwood
P.O. Box 1389
Brownwood, Texas 76804

OR99-3070

Dear Mr. Chesser:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128529.

The City of Brownwood (the "city") received a request for twelve categories of information, including a request for legal fee bills submitted by outside counsel. You have released all of the requested information, except for information responsive to the request for legal fee bills. You claim that the fee bills are excepted from disclosure under sections 552.103 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.103(a) excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.--Austin 1997, no pet.); *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). Section 552.103 requires concrete evidence that litigation may ensue. To demonstrate that litigation is reasonably anticipated, the city must furnish evidence that litigation is realistically contemplated and is more than mere conjecture. Open Records Decision No. 518 at 5 (1989). Whether litigation is reasonably anticipated must be determined on a case-by-case basis. Open Records Decision No. 452 at 4 (1986).

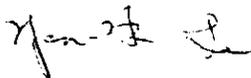
You supplied this office with a copy of a complaint of discrimination filed with the Equal Employment Opportunity Commission ("EEOC"). This office has stated that a pending EEOC complaint indicates litigation is reasonably anticipated. Open Records Decision Nos. 386 at 2 (1983), 336 at 1 (1982). We have considered your arguments and conclude

that you have shown that litigation is reasonably anticipated. Additionally, you have shown that the descriptions of legal services are related to the subject of such litigation. However, you have not shown how the hours and fee amounts are related to the litigation. Thus, you may withhold the descriptions of legal services only under section 552.103.¹ You must release the remainder of the submitted information.

Generally, however, once information has been obtained by all parties to the litigation through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Thus, information that has either been obtained from or provided to the opposing party in the anticipated litigation is not excepted from disclosure under section 552.103(a), and it must be disclosed. We also note that the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (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 should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/ljp

Ref.: ID# 125709

Encl.: Submitted documents

cc: Ms. Connie Mitchell
206 Park Drive
Early, Texas 76802
(w/o enclosures)

¹ We need not address your section 552.107 claim as to the information that you may withhold under section 552.103.