



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 20, 2012

Ms. Melissa A. Vidal
Assistant City Attorney
City of Laredo
P.O. Box 579
Laredo, Texas 78042-0579

OR2012-04077

Dear Ms. Vidal:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 448786 (Reference No. W001879-010812).

The City of Laredo (the "city") received a request for a complaint involving the requestor and another named individual. You claim the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

Section 552.103 of the Government Code, the "litigation exception," provides in part:

- (a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a), (c). A governmental body that claims section 552.103 has the burden of providing relevant facts and documentation sufficient to establish the applicability of this exception to the information at issue. To meet this burden, a governmental body must demonstrate that (1) litigation was pending or reasonably anticipated on the date of its receipt of the request for information and (2) the information at issue is related to the pending or anticipated litigation. *See Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479 (Tex. App.—Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.). Both elements of the test must be met in order for information to be excepted from disclosure under section 552.103. *See Open Records Decision No. 551 at 4 (1990).*

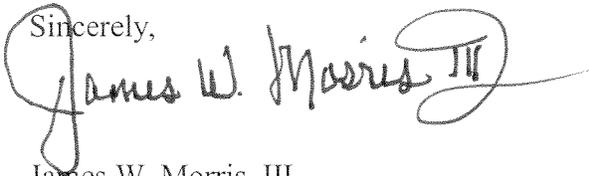
You contend the submitted information is related to pending litigation. You state, and have provided documentation confirming, the city was a party to the litigation on the date of its receipt of the present request for the submitted information. Based on your representations and documentation and our review, we conclude the city may withhold the submitted information at this time under section 552.103 of the Government Code.

In reaching this conclusion, we assume the opposing party in the pending litigation has not seen or had access to the submitted information. The purpose of section 552.103 is to enable a governmental body to protect its position in litigation by forcing parties to obtain information related to litigation through discovery procedures. *See ORD 551 at 4-5.* If the opposing party has seen or had access to information related to pending litigation, through discovery or otherwise, then there is no interest in withholding such information from public disclosure under section 552.103. *See Open Records Decision Nos. 349 (1982), 320 (1982).* We note the applicability of this exception ends once the related litigation concludes. *See Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).*

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,


James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 448786

Enc: Submitted documents

c: Requestor
(w/o enclosures)