



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 3, 2012

Ms. Regina D. Adams
Johnson, Radcliffe, Petrov & Bobbitt, P.L.L.C.
1001 McKinney, Suite 1000
Houston, Texas 77002-6424

OR2012-04811

Dear Ms. Adams:

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# 449471.

The Far Hills Utility District (the "district"), which you represent, received a request for information related to the disposition of a lawsuit concerning the district's wastewater treatment plant, including the amount of the settlement, and for the application date for the next district board election. You claim some of the requested information is excepted from disclosure under section 552.103 of the Government Code. You state you have notified the individuals to whom the requested information relates pursuant to section 552.304 of the Government Code. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted representative sample of information.¹

We note section 552.022(a) of the Government Code is applicable to the submitted information, which provides in relevant part the following:

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988)*. This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(18) a settlement agreement to which a governmental body is a party.

Id. § 552.022(a)(18). The submitted information is a settlement agreement that is subject to section 552.022(a)(18) of the Government Code. Although you raise section 552.103 of the Government Code for this information, this section is a discretionary exception to disclosure that protects a governmental body's interest and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 551 (1990) (statutory predecessor to section 552.103 serves only to protect governmental body's position in litigation and does not itself make information confidential). Consequently, the district may not withhold the settlement agreement under section 552.103 of the Government Code. As you raise no other exception to disclosure, the information at issue must be released.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 449471

Enc. Submitted documents

c: Requestor
(w/o enclosures)