



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 10, 2013

Mr. Jeff Law
Executive Director
Chief Appraiser
Tarrant Appraisal District
2500 Handley-Ederville Road
Fort Worth, Texas 76118-6909

OR2013-11733

Dear Mr. Law:

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# 492666.

The Tarrant Appraisal District (the "district") received a request for information that was submitted at "2012 ARB hearings" for twelve specified accounts. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have only submitted information pertaining to one of the twelve accounts specified in the request. To the extent any information responsive to the remaining eleven accounts existed on the date the district received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).*

Section 552.103 of the Government Code provides, in relevant 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). The governmental body has the burden of providing relevant facts and documents to show 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 on the date the governmental body received the request for information, and (2) the information at issue is related to that litigation. *Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (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). The governmental body must meet both prongs of this test for information to be excepted under section 552.103(a). The question of whether litigation is reasonably anticipated must be determined on a case-by-case basis. See Open Records Decision No. 452 at 4 (1986). To demonstrate litigation is reasonably anticipated, the governmental body must furnish concrete evidence that litigation involving a specific matter is realistically contemplated and is more than mere conjecture. *Id.*

You state, and provide documentation showing, that the district is involved in an *ad valorem* tax suit styled *Cornerstone Marina Club, LLC v. Tarrant Appraisal District*, in the district court of Tarrant County, Texas. You state this litigation commenced prior to the district's receipt of the request at issue. Accordingly, we find the district was involved in pending litigation at the time it received the request. You state the pending litigation is an appeal of an order by the district's Appraisal Review Board ("board"), and the information sought relates to that order and the associated board hearing. Based on these representations and our review, we find the information at issue relates to the pending litigation to which the district is a party. Thus, the district may withhold the submitted information under section 552.103 of the Government Code.

We note that both parties to the litigation in this case have had access to some of the information at issue. 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. See Open Records Decision Nos. 349 (1982), 320 (1982). Thus, any information obtained from or provided to all other parties in the litigation is not excepted

from disclosure under section 552.103(a) of the Government Code and must be disclosed. Further, the applicability of section 552.103(a) ends once the litigation has concluded. *See* Attorney General Opinion MW-575 (1982); *see also* 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,



Nheka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

Ref: ID# 492666

Enc. Submitted documents

c: Requestor
(w/o enclosures)