



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 15, 2014

Ms. Elizabeth Conry Davidson  
Counsel for Bexar County Appraisal District  
926 Chulie Drive  
San Antonio, Texas 78216-6522

OR2014-06262

Dear Ms. Davidson:

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# 519585.

The Bexar County Appraisal Review Board (the "board"), which you represent, received a request for a copy of any protests, documentation presented to the board, and any orders issued by the board for thirteen referenced accounts for the 2013 tax year, as well as hearing tapes and/or transcripts of any hearings conducted before the board for the thirteen referenced accounts for the 2013 tax year. 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 submitted representative sample of information.<sup>1</sup>

Initially, we note some of the submitted information is not responsive to the present request because it pertains to accounts not referenced in the request. This ruling does not address the public availability of any information that is not responsive to this request, and the board need not release such information in response to this request.

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<sup>1</sup>We 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.

Section 552.103 of the Government Code 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 an exception to disclosure under section 552.103 has the burden of providing relevant facts and documentation sufficient to establish the applicability of this exception to the information that it seeks to withhold. To meet this burden, the governmental body must demonstrate that (1) litigation was pending or reasonably anticipated on the date the governmental body received 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, 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.). The governmental body must meet both prongs of this test for information to be excepted from disclosure under section 552.103(a). *See Open Records Decision No. 551 at 4 (1990).*

You state, and provide supporting documentation demonstrating, prior to the board's receipt of the instant request for information, the requestor's clients filed a lawsuit styled *Inland Western San Antonio Mission L.P. et al. v. Bexar Appraisal Review Board*, Cause No. 2013-CI-15014, in the 224th Judicial District of Bexar County naming the board as the defendant. Based upon your representations and our review, we find the board was a party to pending litigation on the date it received the request. Further, you state, and we agree, the information at issue relates to the pending litigation. Accordingly, we conclude the board may withhold the submitted information under section 552.103.

We note once the information has been obtained by all parties to the pending litigation, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. *Open Records Decision No. 349 at 2 (1982)*. We also note the applicability of section 552.103(a) ends when the litigation is concluded. *Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 350 at 3 (1982), 349 at 2 (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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cristian Rosas-Grillet  
Assistant Attorney General  
Open Records Division

CRG/bhf

Ref: ID# 519585

Enc. Submitted documents

c: Requestor  
(w/o enclosures)