



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 26, 1994

Mr. J.A. Magallanes  
Law Offices of Magallanes & Sokat  
P.O. Box 4901  
Brownsville, Texas 78520

OR94-177

Dear Mr. Magallanes:

You have asked this office to determine if certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 23688.

The Cameron County Fresh Water District No. 1 (the "district") received an open records request for a list of water tap fee applications filed subsequent to June 20, 1988, to show the number of taps by size, amounts paid by size, and dates of payment. You contend that this information is excepted by section 552.103(a), which excepts information relating to litigation to which the governmental entity may be a party. For information to be excepted from public disclosure by section 552.103(a), litigation must be pending or reasonably anticipated, and the information must be related to that litigation. *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 Nos. 551 (1990); 350 (1982) at 3 (whether litigation is reasonably anticipated must be determined on a case-by-case basis). The district must show that "litigation involving a specific matter is realistically contemplated and is more than mere conjecture." Open Records Decision No. 518 (1989) at 5. As you have not demonstrated that there is a reasonable anticipation of litigation, this information may not be withheld under section 552.103(a).<sup>1</sup>

You also asked if the district is required to supply a "list" of the requested information. You stated that the request would require creation of a special list to reflect the information, since the district does not keep the information in list form. The district

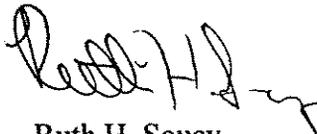
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<sup>1</sup>The requestor originally also asked for the names and service addresses of applicants. Your letter stated that it was the district's position that such information would be used "to contact the District's customers to encourage them to file suit against the District." We note that you continue to urge a section 552.103(a) exception even though the requestor modified his inquiry to make clear that he did not seek the names or service addresses. You have made no other argument concerning this exception.

does not have to organize information in a particular way in response to an open records request. Attorney General Opinion JM-672 (1987) at 5 (information does not have to be prepared in a particular form dictated by requestor); Open Records Decision Nos. 599 (1992) at 5 (governmental body does not have to create new documents or compile a list of information); 572 (1990) at 1 (information does not have to be compiled into lists). Although the district does not have to compile a list, the district is required to provide to the requestor public information which is responsive and contained in the district's records. Gov't Code § 552.228; Open Records Decision Nos. 87, 74 (1975); *see* Open Records Decision No. 606 (1992) (unless parties agree otherwise, the governmental body may not provide the requestor a newly generated document showing only disclosable information). The sample applications you supplied as responsive to the request show date and payment information. This is public information that must be disclosed. If the district has other records which would show tap size, that information must also be provided.<sup>2</sup>

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Government Section

RHS/rho

Ref.: ID# 23688  
ID# 23806

Enclosures: Submitted documents

cc: Mr. Herb Houston, Jr.  
P. O. Box 2368  
South Padre Island, Texas 78597  
(w/o enclosures)

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<sup>2</sup>You have asked about article 1446h, V.T.C.S., which provides that a government-operated utility may not disclose personal information in a customer's account records if the customer requests the utility keep the information confidential. The information that is requested in this situation is not "personal information" that would be protected under this statute. "Personal information" is defined as an individual's address, telephone number, or social security number, V.T.C.S. art. 1446h, § 1(2). The requestor does not ask for the release of such personal information.