



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 23, 1996

Mr. Nathan B. Rheinlander
Comal County Attorney
150 North Seguin, Suite 318
New Braunfels, Texas 78130-5113

OR96-0788

Dear Mr. Rheinlander:

The Comal County Water Oriented Recreation District (the "district") received an open records request for bills submitted by a law firm for legal work concerning the district.¹ You have asked this office to determine if the information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. You assert that the information may be excepted under section 552.103(a) of the Government Code. Your request was assigned ID# 25431.

Section 552.103(a) provides an exception for information that relates to litigation "to which the state or a political subdivision is or may be a party." Gov't Code § 552.103(a)(1). To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information "relates" to pending or reasonably anticipated litigation. Open Records Decision No. 551 (1990) at 4. The requestor states that the information relates to the lawsuit. The documents you have provided indicate that the district is a party to a lawsuit styled "Abbott v. Texas" that is on appeal to the Third Court of Appeals. The pleadings indicate that the fee bills are one of the issues in litigation. Since the fee bills are related to pending litigation to which the district is a party, you have demonstrated the applicability of section 552.103(a). The requested records may therefore be withheld.

¹The district is a park and recreation district as defined in section 324.002 of the Local Government Code. Pursuant to section 324.062 of the Local Government Code, the Comal County Attorney provides legal advice and legal services to the district. It appears that the district's bills are maintained by the Comal County Auditor. Local Gov't Code § 324.097.

In reaching this conclusion, however, we assume that the opposing parties to the anticipated litigation have not previously had access to the records at issue. If these fee bills were disclosed during discovery or otherwise to the opposing parties, no section 552.103(a) interest now exists with respect to that information. Open Records Decision No. 349 (1982) at 2. The applicability of section 552.103(a) also ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982) at 3. We note that since the section 552.103(a) exception is discretionary with the governmental entity asserting the exception, it is within the district's discretion to release this information to the requestor. Gov't Code § 552.007; Open Records Decision No. 542 (1990) at 4.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/rho

Ref.: ID# 25431

Enclosures: Submitted documents

cc: Ms. Lois M. Duggan
HC 4, Box 199
Canyon Lake, Texas 78133
(w/o enclosures)