



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 18, 1996

Mr. Philip S. Haag
Hutcheson & Grundy, LLP
111 Congress Avenue, Suite 2700
Austin, Texas 78701-4043

OR96-1175

Dear Mr. Haag:

You seek reconsideration of Open Records Letter No. 96-0608 (1996), in which this office determined that the Texas Open Records Act, Government Code chapter 552, required the Lost Creek Municipal Utility District (the "district") to make certain information available to the public. This office assigned your request for reconsideration ID# 40411.

The Lost Creek Municipal Utility District (the "district"), which you represent, received a request for any agreements and correspondence between the district and "FM Properties, Barton Creek Properties, Freeport-McMoRan, and any other organizations or individuals related to these businesses." In your request for reconsideration, you reiterate that two letters between attorneys for the district and attorneys for FM Properties are excepted from disclosure by section 552.103 of the Government Code. You submitted copies of the letters that are at issue to our office for review.

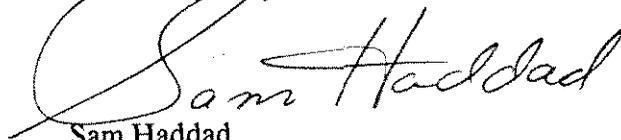
In your original request to this office you claimed that the requested information was excepted from required public disclosure pursuant to section 552.103(a) of the Government Code. In Open Records Letter No. 96-0608 (1996), this office concluded that the district had established that litigation was reasonably anticipated and that the requested information was related to the anticipated litigation. However, we determined that "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. Open Records Decision Nos. 349 (1982), 320 (1982)." Specifically, we found that since FM Properties previously had access to the letters that are the subject of the request, you could not withhold them under section 552.103, after the disclosure.

We have carefully considered the arguments you have made regarding the distinct character of settlement negotiations and the applicability of section 552.103, however, you have failed to raise any issues that would cause us to reconsider our original ruling.

Therefore, we decline to overrule our decision in Open Records Letter No. 96-0608 (1996).

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Sam Haddad". The signature is written in black ink and is positioned above the printed name and title.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/ch

Ref.: ID# 40411

Enclosures: Submitted documents

cc: Ms. Nancy Naeve
1711 Lost Creek Blvd.
Austin, Texas 78746
(w/o enclosures)