



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 3, 1997

Ms. Ana Markowski Smith
County Attorney
Val Verde County
207 East Losoya
Del Rio, Texas 78840

OR97-0004

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102715.

Val Verde County (the "county") received a request for "a written copy of the Val Verde County Library Board's findings and recommendation, submitted to County Commissioners, for Library Director Anne Gault's resignation." You contend that this information is excepted from disclosure under sections 552.103 and 552.111 of the Government Code.

Section 552.103(a) excepts from disclosure information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, 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; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). Litigation cannot be regarded as "reasonably anticipated" unless there is more than a "mere chance" of it--unless, in other words, we have concrete evidence showing that the claim that litigation may ensue is more than mere conjecture. Open Records Decision Nos. 452 (1986), 331

(1982), 328 (1982). Whether litigation is reasonably anticipated must be determined on a case-by-case basis. Open Records Decision Nos. 452 (1986), 350 (1982).

You have established that the county reasonably anticipates litigation involving the library director. See Open Records Decision Nos. 346 (1982), 288 (1981). Because the requested information relates to anticipated litigation, the county may withhold the information from disclosure pursuant to section 552.103(a). We note, however, that once all parties to the anticipated litigation have gained access to the requested information, through discovery or otherwise, section 552.103(a) is no longer applicable. Open Records Decisions Nos. 551 (1990), 454 (1986). Further, once the litigation has concluded, section 552.103(a) is no longer applicable. Open Records Decision No. 350 (1982).¹

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 should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 102715

Enclosures: Submitted documents

cc: Ms. Rosa Delgado
Managing Editor
Del Rio News-Herald
P.O. Box 4020
Del Rio, Texas 78840
(w/o enclosures)

¹Because we find that you may withhold the requested information under section 552.103, we need not address your section 552.111 claim at this time.