



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 13, 1998

Ms. Bonnie Lee Goldstein  
Vial, Hamilton, Koch & Knox, L.L.P.  
1717 Main Street, Suite 4400  
Dallas, Texas 75201-7388

OR98-0454

Dear Ms. Goldstein:

You ask whether 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# 113450.

The City of Highland Village (the "city"), which you represent, received a request for the name of the person who complained about a barking dog at a specific address. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.<sup>1</sup>

Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state or a political subdivision is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is 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 No. 551 (1990) at 4. The governmental body must meet both prongs of this test for information to be excepted under section 552.103(a). In this instance, you state that litigation is pending in Municipal Court against the owners of the alleged barking dog. We conclude that you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a). The requested name may therefore be withheld from disclosure.

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<sup>1</sup>We note that much of the information which you submitted for our review is non-responsive, as the requestor has asked only for the name of the complainant. We do not address the non-responsive information in this ruling.

Generally, however, 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). Thus, information that has either been obtained from or provided to the opposing party in the anticipated litigation is not excepted from disclosure under section 552.103(a), and it must be disclosed. In addition, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Because we are able to make a determination under section 552.103, we do not address your other arguments against disclosure. 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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch  
Assistant Attorney General  
Open Records Division

VDP/glg

Ref.: ID# 113450

Enclosures: Submitted documents

cc: Cliff and Linda Carr  
217 Lakeland Drive  
Highland Village, Texas 75067  
(w/o enclosures)