



Office of the Attorney General

State of Texas

July 16, 1998

DAN MORALES

ATTORNEY GENERAL

Ms. Martha T. Williams  
General Counsel  
Port of Houston Authority  
P.O. Box 2562  
Houston, Texas 77252-2562

OR98-1690

Dear Ms. Williams:

You ask that we reconsider our decision in Open Records Letter No. 98-1189 (1998). Your request for reconsideration was assigned ID# 117161.

Open Records Letter No. 98-1189 (1998) determined that the Port of Houston Authority (the "Authority") could not withhold from public disclosure a number of records pertaining to the Houston-Galveston Navigation Projects based on section 552.103 of the Government Code. You state that the information at issue in this open records letter included a draft of the Project Cooperation Agreement between the United States Army Corps of Engineers and the Authority (the "Agreement"). An earlier open records letter, Open Records Letter No. 98-1180 (1998), determined that the Authority may withhold the Agreement from public disclosure based on section 552.103. You now ask that we consider the arguments the Authority submitted to this office to establish the applicability of section 552.103 in Open Records Letter No. 98-1180 (1998).

We have reviewed the arguments the Authority submitted to this office to establish the applicability of section 552.103 in Open Records Letter No. 98-1180 (1998). This March 24, 1998 letter establishes the applicability of section 552.103 to the information.<sup>1</sup> Accordingly, we conclude that the Authority may withhold the information from disclosure based on section 552.103.<sup>2</sup> Open Records Letter No. 98-1189 is overruled to the extent it conflicts with this ruling.

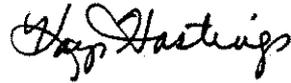
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<sup>1</sup>To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). In this case, the Authority has established that the information relates to reasonably anticipated litigation. We remind you however, that a governmental body should submit written comments each time the governmental body seeks a ruling from this office.

<sup>2</sup>If the opposing party in the litigation has seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation is concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with this 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,

A handwritten signature in cursive script that reads "Kay Hastings".

Kay Hastings  
Assistant Attorney General  
Open Records Division

KHH/mjc

Ref.: ID# 117161

cc: Ms. Stephanie Barnes-Taylor  
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