



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 20, 1998

Ms. Eugenia A. Cano
City Attorney
City of Alvin
216 W. Sealy
Alvin, Texas 77511

OR98-1981

Dear Ms. Cano:

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# 117490.

The City of Alvin (the "city") received a request for "invoices from Olson & Olson for last 12 months whether paid or not." You have released some of the requested information. You claim that the remaining requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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.

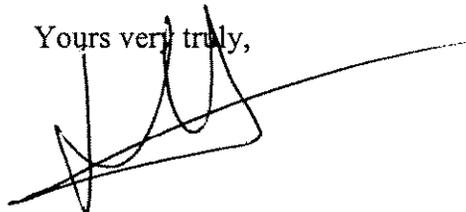
The governmental body has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue 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). To demonstrate that litigation is reasonably anticipated, the governmental body must furnish evidence that litigation is realistically contemplated and is more than mere conjecture. Open Records Decision No. 518 (1989) at 5. Whether litigation is reasonably anticipated must be determined on a case-by-case basis. Open Records Decision No. 452 (1986) at 4.

In this instance, you explain that the city is currently involved in pending litigation in several different cases being handled by the city's law firm. You represent that the basis and amount of attorneys' fees contain billing rates, amounts expended for attorneys' fees and a breakdown of attorney time spent on specific legal issues. Additionally, you state that the invoices also reveal the specific names of persons with whom the attorneys have held discussions. You further assert that it would be extremely damaging to allow a party to obtain knowledge of the details of how resources have been spent as it is much easier to assess the likelihood of trial or settlement and possible amount of settlement if a party knows precisely the amount of resources that are going into the defense of a case and how much must still be spent to prepare for trial. Additionally you assert that revelation of the narrative portions of the invoices permits an opposing party to directly ascertain the city's trial strategy. After reviewing the submitted materials, and based on your representations, we conclude that litigation is pending and that the information contained in the documents submitted relates to the pending litigation. The city may withhold this information under section 552.103.

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,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', is written over a horizontal line. The signature is stylized and somewhat cursive.

Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/nc

Ref.: ID# 117490

Enclosures: Submitted documents

cc: Mr.Doyel Raney
1517 Alta Vista
Alvin, Texas 77511
(w/o enclosures)