



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 17, 1998

Ms. Elizabeth Lutton
Senior Attorney
City of Arlington Texas
Mail Stop 03-0100
501 West Main Street
Arlington, Texas 776010

OR98-2229

Dear Ms. Lutton:

You ask this office to reconsider a portion of our decision in Open Records Letter No. 98-1495 (1998). Your request for reconsideration was assigned ID# 118110.

Open Records Letter No. 98-1495, which involved a request for information related to complaints filed with the United States Department of Housing and Urban Development ("HUD") by former members of the Arlington Housing Authority, determined that the City of Arlington (the "city") may not withhold the requested information from public disclosure based on section 552.101 or section 552.103 of the Government Code. You ask that we reconsider the letter's section 552.103 ruling as it pertains to a portion of the information at issue, a letter from the city to HUD. This letter, you say, is the city's response to the complaint against the city filed with HUD. You assert that section 552.103 should apply to this letter because the letter was never released to the complainants.

Open Records Letter No. 98-1495 determined that, while the city had met its section 552.103 burden, the city may not withhold the information based on this exception because this office believed the letter to have been released to the opposing party. Generally, section 552.103 applies to information that relates to pending or reasonably anticipated litigation to which the governmental body is a party. However, no section 552.103 interest exists in information that has been obtained by all parties to the litigation. *See* Open Records Decision Nos. 349 (1982), 320 (1982).

As you now establish that the premise on which we found section 552.103 to be inapplicable to the letter is incorrect, we overrule Open Records Letter 98-1495 as it applies to the letter. Therefore, the city may withhold the letter from the requestor based on section 552.103 of the Government Code. However, once the litigation is concluded, the

applicability of section 552.103(a) ends. 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,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/mjc

Ref.: ID# 118110

Enclosures: Submitted documents

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