



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 20, 2013

Mr. Charles Galindo Jr.
Assistant Attorney General
Assistant Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2013-04603

Dear Mr. Galindo:

You ask whether certain information is subject to required public disclosure under the Public Information Act ("Act"), chapter 552 of the Government Code. This request was received by the Open Records Division of the Office of the Attorney General ("OAG") and assigned ID# 482431 (PIR No. 13-35181). Preparation of the ruling was assigned to the Opinion Committee of the OAG.

The OAG received a request for documents related to section 552.150 of the Government Code, which allows an officer or employee of a hospital district to submit an application to have information withheld from public disclosure that could reasonably be expected to compromise the officer's or employee's safety. The documents that you ask about are section 552.150 applications that Parkland Health and Hospital System ("Parkland") officers and employees submitted in connection with Parkland's requests for rulings that culminated in the following letter rulings: OR2011-18041, OR2011-03032, OR2010-02881, and OR2010-16352. You state that the OAG has released most of the information responsive to the request, but that the remainder is excepted from disclosure under section 552.103. We have considered the OAG's claimed exception and reviewed the representative sample of information you have submitted under the tab marked "Exhibit B."¹

¹We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Section 552.103 of the Government Code provides that information is excepted from required public disclosure if it is information:

relating to litigation of a civil or criminal nature 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. . . . Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure . . . only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

TEX GOV'T CODE ANN. § 552.103(a), (c) (West 2013). "The primary objective in construing a statute is to give effect to the legislature's intent. When possible the court must find legislative intent in the plain and common meaning of the words used in the statute." *Thomas v. Cornyn*, 71 S.W.3d 473, 481 (Tex. App.—Austin 2002, no pet.); TEX GOV'T CODE ANN. § 311.011 (West 2005). The OAG has the burden of providing relevant facts and documents to establish the section 552.103(a) exception is applicable in a particular situation. TEX GOV'T CODE ANN. § 552.301 (West 2013). To meet this burden the OAG must demonstrate that (1) litigation is pending or reasonably anticipated on the date of its receipt of the request for information, and (2) the information at issue is related to that litigation. *Univ. of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.—Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); Tex. Att'y Gen. Op. ORD-551 at 3 (1990).

You state that on the date this request was received, a lawsuit involving the OAG was pending in Travis County District Court. *See Dallas Cnty. Hosp. Dist. v. Abbott*, No. 0-1-GN-10-000812 (353rd Dist. Ct., Travis County, Tex. March 15, 2010). Additionally, the information being requested from the OAG is the same information at issue in the litigation. *Compare* Public Information Request from Joseph Larsen to Officer for Public Information at 1 (Jan. 6, 2013) ("I hereby request . . . [a]ll section 552.150 applications."), *with* Letter from Joseph Larsen to Honorable Greg Abbott, Tex. Att'y Gen. at 1 (Feb. 12, 2013) ("The only litigation at issue regards the very applications under sec. 552.150."). Thus, the information requested is directly related to the pending litigation. Having met both requirements, the OAG may withhold the requested information from disclosure based on section 552.103(a).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free,

at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Virginia K. Hoelscher".

Virginia K. Hoelscher
Assistant Attorney General
Opinion Committee

VKH/sdk

Ref: ID# 482431

Enc. Submitted documents

c: Requestor
(w/o enclosures)