



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 5, 2015

Ms. Sarah Knippa  
Records Coordinator  
Travis Central Appraisal District  
P.O. Box 149012  
Austin, Texas 78714

OR2015-16114

Dear Ms. Knippa:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 574212 (PIR No. 10874).

The Travis Central Appraisal District (the "district") received a request for the names of appraisal review board members or observers present at two specified hearings. The district claims the submitted information is excepted from disclosure under sections 552.103 and 552.111 of the Government Code. We have considered the exceptions the district claims and reviewed the submitted representative sample of information.<sup>1</sup> We have also received and considered comments from a representative of the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

We note the requestor only requested the names of appraisal review board members or observers present at the two specified hearings. Thus, the remaining submitted information is not responsive to the present request. This ruling does not address the public availability

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<sup>1</sup>We 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.

of non-responsive information, and the district is not required to release non-responsive information in response to this request.

Section 552.103 of the Government Code provides in relevant part as follows:

(a) 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.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) 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.

*Id.* § 552.103(a), (c). The governmental body has the burden of providing relevant facts and documents to show 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 on the date the governmental body received the request for information and (2) the information at issue is related to that litigation. *Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.—Austin 1997, orig. proceeding); *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 at 4 (1990). The governmental body must meet both prongs of this test for information to be excepted from disclosure under section 552.103(a).

The district states, and provides documentation showing, a lawsuit styled *Howell v. Travis County Appraisal Dist.*, Cause No. D-1-GN-11-002608, was pending against the district in the 353rd District Court of Travis County, Texas, when it received the request for information. Therefore, we agree litigation was pending when the district received the request. We also find the district has established the responsive information is related to the pending litigation for purposes of section 552.103(a). Therefore, the district may withhold the responsive information under section 552.103(a).<sup>2</sup>

However, once the information has been obtained by all parties to the pending litigation, no section 552.103(a) interest exists with respect to that information. Open Records Decision No. 349 at 2 (1982). We also note the applicability of section 552.103(a) ends when the

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<sup>2</sup>As our ruling is dispositive, we need not address the district's remaining argument against disclosure.

litigation has concluded. Attorney General Opinion MW-575 at 2 (1982); Open Records Decision Nos. 350 at 3 (1982), 349 at 2.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



David L. Wheelus  
Assistant Attorney General  
Open Records Division

DLW/bhf

Ref: ID# 574212

Enc. Submitted documents

c: Requestor  
(w/o enclosures)