



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 24, 2016

Mr. Philip S. Haag  
Counsel for the Johnson Ranch Municipal Utility District  
McGinnis Lochridge  
600 Congress Avenue, Suite 2100  
Austin, Texas 78701

OR2016-14419

Dear Mr. Haag:

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# 615926.

The Johnson Ranch Municipal Utility District (the "district"), which you represent, received a request for information pertaining to a specified election. You claim the submitted 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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, lawsuits styled *Johnson Ranch Municipal Utility District v. Patricia Lux Graham*, Cause No. 2015-CVB-0054, and *Johnson Ranch Municipal Utility District v. Margie Hastings*, Cause No. 2015-CVB-0056, were pending in the County Court at Law in Comal County, Texas, when the district received the instant request for information. Further, the district states, and provides documentation showing, a lawsuit styled *Johnson Ranch Municipal Utility District v. Patricia Lux Graham and Margie Hastings*, Cause No. C2014-0438B, was pending in the 207th Judicial District Court of Comal County, Texas, when the district received the instant request for information. Therefore, we agree litigation to which the district is a party was pending when the district received the request. However, upon review, we find the district has not demonstrated the submitted information pertains to the pending litigation. Thus, we conclude the district has failed to demonstrate the submitted information is related to litigation to which the district was a party when it received the request for information. Therefore, the district may not withhold the submitted information under section 552.103(a) of the Government Code. Accordingly, the district must release the submitted information.

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,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan", with a stylized flourish at the end.

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 615926

Enc. Submitted documents

c: Requestor  
(w/o enclosures)