



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 7, 2017

Mr. Nathan E. Vassar
Counsel for the Chambers-Liberty Counties Navigation District
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701

OR2017-07328

Dear Mr. Vassar:

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# 652712.

The Chambers-Liberty Counties Navigation District (the "district"), which you represent, received a request for information pertaining to fees paid to legal counsel and specified invoices.¹ 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, some of which consists of a representative sample.²

¹We note the district sought clarification of the information requested. *See* Gov't Code § 552.222(b) (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²We assume that 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 that those records contain substantially different types of information than that submitted to this office.

Initially, we note some of the responsive information may have been the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2016-08105 (2016). In that ruling, we determined, in part, the district may withhold the information we marked under Texas Rule of Evidence 503 and, with the exception of the information seen by the opposing party to the pending litigation, which we marked, may withhold the remaining responsive information not subject to section 552.022 of the Government Code under section 552.103 of the Government Code. There is no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, we conclude the district must continue to rely on Open Records Letter No. 2016-08105 as a previous determination and withhold or release the identical information in accordance with that information. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure).

Next, we note the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

...

(16) information that is in a bill for attorney's fees and is not privileged under the attorney-client privilege; [and]

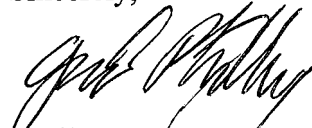
Gov't Code § 552.022(a)(3), (16). The submitted information contains information in accounts, contracts, invoices, purchase orders, and receipts that are subject to section 552.022(a)(3) and attorney fee bills that are subject to section 552.022(a)(16), which must be released unless they are made confidential under the Act or other law. *See id.* § 552.022(a)(3), (16). You seek to withhold this information under section 552.103 of the Government Code. However, section 552.103 is a discretionary exception and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental

body may waive section 552.103); *see also* Open Records Decision Nos. 676 at 10-11 (2002) (attorney-client privilege under Gov't Code § 552.107(1) may be waived), 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the submitted information may not be withheld under section 552.103 of the Government Code. As no further exceptions to disclosure have been raised, the submitted information must be released.

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, 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,



April Philley
Assistant Attorney General
Open Records Division

AP/sb

Ref: ID# 652712

Enc. Submitted documents

c: Requestor
(w/o enclosures)