



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 14, 2017

Mr. Robert W. Wilson  
Counsel for the County of Maverick  
Sánchez & Wilson, PLLC  
6243 IH-10 West, Suite 1025  
San Antonio, Texas 78201

OR2017-13129

Dear Mr. Wilson:

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# 661991.

Maverick County (the "county"), which you represent, received a request for communications between named individuals pertaining to property tax rates or property taxes during a specified period of time. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.103 of the Government Code provides, in relevant part:

(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.

Gov't Code § 552.103(a), (c). The governmental body claiming section 552.103 has the burden of providing relevant facts and documents sufficient to establish the applicability of section 552.103 to the information it seeks to withhold. To meet this burden, the governmental body must demonstrate: (1) litigation was 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. *See Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479 (Tex. App.—Austin 1997, orig. proceeding); *Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.). Both elements of the test must be met in order for information to be excepted from disclosure under section 552.103. *See Open Records Decision No. 551 at 4 (1990).*

You assert the submitted information relates to pending litigation. You state, and provide documentation showing, a petition for writ of mandamus and declaratory judgment styled *Ethelvina Felan v. Maverick County, et al*, Cause No. 17-02-33970-MCV, was filed against the county in the 293rd District Court in Maverick County, Texas, prior to the county's receipt of the instant request for information. Thus, we find litigation was pending against the county at the time it received the request. Moreover, we find the information at issue is related to the pending litigation for purposes of section 552.103. Accordingly, the county may withhold the submitted information under section 552.103 of the Government Code.<sup>1</sup>

Generally, however, once information has been obtained by all parties to the litigation through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. *See Open Records Decision Nos. 349 (1982), 320 (1982).* Thus, information that has either been obtained from or provided to all parties to the pending litigation is not excepted from disclosure under section 552.103(a) and must be disclosed. Further, the applicability of section 552.103(a) ends once the litigation has been concluded. *See Attorney General Opinion MW-575 (1982); see also Open Records Decision No. 350 (1982).*

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

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

*Paige Lay*

Paige Lay  
Assistant Attorney General  
Open Records Division

PL/som

Ref: ID# 661991

Enc. Submitted documents

c: Requestor  
(w/o enclosures)