



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 28, 2022

Mr. Michael B. Gary
Chief Legal and Compliance Officer
Fort Bend Central Appraisal District
2801 B.F. Terry Boulevard
Rosenburg, Texas 77471-5600

OR2022-02492

Dear Mr. Gary:

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# 927528 (Ref. No. 21-0014).

The Fort Bend Central Appraisal District (the "district") received a request for information pertaining to two specified properties. 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.

Initially, we note the request for information requires the district to answer questions. The Act does not require a governmental body to answer general questions, perform legal research, or create new information in response to a request for information. *See Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990)*. However, the Act does require the governmental body to make a good faith effort to relate a request to information that the governmental body holds or to which it has access. *See Open Records Decision Nos. 563 at 8, 561 at 8-9 (1990), 555 at 1-2, 534 at 2-3 (1989)*. In this instance, we assume the district has made a good faith effort to locate any information responsive to this request. Accordingly, we will address the claimed exception to disclosure of 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 state, and provide documentation showing, prior to the district's receipt of the instant request, a lawsuit styled *William Warren Group, Inc. v. Fort Bend Central Appraisal Dist.*, Cause No. 21-DCV-286504, was filed and is currently pending against the district in the 268th District Court of Fort Bend County, Texas. Therefore, we agree litigation was pending on the date the district received the instant request for information. You also state the information at issue pertains to the substance of the pending litigation. Based on these representations and our review, we find the information at issue is related to the pending litigation. Therefore, we conclude the district may withhold the submitted information under section 552.103 of the Government Code.

Generally, however, once information has been obtained by all parties to the litigation though 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Alexandra C. Burks
Assistant Attorney General
Open Records Division

ACB/jm

Ref: ID# 927528

Enc. Submitted documents

c: Requestor
(w/o enclosures)