



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 15, 1994

Ms. Karen Hendershot Bailey
Assistant City Attorney
City of Victoria
P. O. Box 1758
Victoria, Texas 77902-1758

OR94-124

Dear Ms. Bailey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code, formerly V.T.C.S. article 6252-17a.¹ Your request was assigned ID# 23418.

The City of Victoria received an open records request for a certain property inventory taken when an individual was booked into the city jail, which you contend may be withheld from the public pursuant to section 552.103(a) of the act. To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information relates to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance, you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a); the requested records may therefore be withheld.

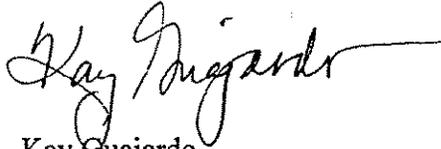
In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing party in the litigation has seen or had access to the requested information, there would be no

¹The Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the the Government Code at chapter 552. *Id.* § 1. This codification of the Open Records Act is a nonsubstantive revision. *Id.* § 47.

justification for now withholding it from the requestor pursuant to section 552.103(a). Additionally, the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575; Open Records Decision No. 350 (1982).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink that reads "Kay Guajardo". The signature is written in a cursive style with a long horizontal line extending to the right.

Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID# 23418

Enclosures: Submitted documents

cc: Mr. Leopold Lee Pedraza
208 E. Live Oak
Cuero, Texas 77954
(w/o enclosures)