



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 23, 1995

Mr. John Schneider
First Assistant City Attorney
City of Pasadena
P.O. Box 672
Pasadena, Texas 77501

OR95-448

Dear Mr. Schneider:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 29049.

The City of Pasadena (the "city") received an open records request for information relating to the city's Community Services Department. Specifically, the requestor seeks "all records in the possession of the City of Pasadena relating to the Community Services Department and properties at 2117 Allen Genoa Road and 907 Harris Avenue owned by Willie E. Loocke." You have submitted the requested information to us for review and claim that sections 552.103, 552.108, and 552.111 of the Government Code except it from required public disclosure.

We conclude that at least some of the requested information is excepted from disclosure by section 552.103 of the Government Code. Section 552.103(a) excepts from disclosure information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, 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; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that litigation is pending or reasonably anticipated and that the requested information relates to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); *see also* Open Records Decision No. 551 (1990) at 5. You advise us that the requested information relates to a prosecution pending in municipal court against the requestor for alleged violations of city nuisance ordinances. Thus, you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a).

You may not, however, withhold any records to which the opposing party in the litigation has previously had access. 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 to justify withholding the information. Open Records Decision No. 349 (1982) at 2. We have marked the documents accordingly.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 of the Government Code regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/GCK/rho

Enclosures: Marked documents

Ref: ID# 29049

cc: Mr. Willie E. Loocke
2117 Allen Genoa Road
Pasadena, Texas 77502
(w/o enclosures)

¹We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982) at 2, Open Records Decision No. 350 (1982) at 3.