



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 24, 1995

Ms. Y. Qiyamah Taylor  
Assistant City Attorney  
City of Houston  
PO Box 1562  
Houston, Texas 77251-1562

OR95-677

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32473.

The City of Houston (the "city") received a request for

a copy of any and all meetings or hearings with respect to the intersection [of Hartwick and Ribstone streets and] . . . any and all documents with respect to any complaints by any individual with respect to the intersection . . . includ[ing] records of any meetings with respect to the responsibility of the stop sign of that intersection, the responsibility of trimming the vegetation around that intersection as well as any documents pertaining to accidents in that intersection of the five years prior to May of 1993, and for all the matters since May of 1993 to the present time.

You claim that a portion of the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

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.

The city has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related 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.); Open Records Decision No. 551 (1990) at 4. The city must meet both prongs of this test for information to be excepted under 552.103(a).

You state that litigation is pending between the requestor's client and the city and have submitted a copy of the petition in that lawsuit. After reviewing the petition and the submitted documents, we conclude that litigation is pending and that the documents at issue relate to the subject matter of that litigation. Therefore, the city may withhold the submitted documents. We note that if the opposing party in the litigation has seen or had access to any of the information in these records, there is no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Government Section

SES/RHS/rho

Ref.: ID# 32473

Enclosures: Submitted documents

cc: Mr. Javier S. Martinez  
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(w/o enclosures)