



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Mr. Albert López
Attorney at Law
335 South Presa Street
San Antonio, Texas 78205

OR95-884

Dear Mr. López:

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# 33764.

The City of Laredo (the "city") received an open records request for a copy of a particular memorandum, along with the attached documents, and the requestor's personnel file. You state that you have released a copy of the personnel file to the requestor. You contend that the memorandum may be withheld from required public disclosure pursuant to sections 552.103(a), 552.101, and 552.107 of the Government Code. You have submitted for our review, among other documents, the memorandum at issue, without the attachments, as well as a copy of the requestor's first amended petition in the pending lawsuit.

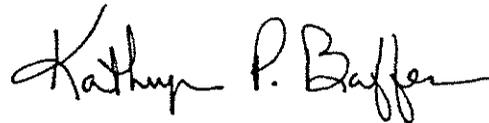
You state that the memorandum and the documents attached are related to the pending litigation between the requestor and the city. To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the memorandum relates to pending litigation for purposes of section 552.103(a).¹ You may withhold the requested records pursuant to section 552.103(a) of the Government Code.

¹Though the requestor seeks the attachments as well as the memorandum, you have not provided this office with a representative sample of the attachments. See Open Records Decision No. 499 (1988). In reviewing the memorandum, we assume that the attachments are the type of documents indicated in the memorandum, and, thus, are also related to the pending litigation.

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, e.g., through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). We also note that 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).

Since we conclude that you may withhold the requested information pursuant to section 552.103, we do not need to address your 552.107 and 552.101 arguments.² We are resolving this matter with this 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 may 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,



Kathryn P. Baffes
Assistant Attorney General
Open Government Section

KPB/RHS/ch

Ref: ID# 33764

Enclosures: Submitted documents

cc: Mr. E. J. Laurel
P. O. Box 2189
Laredo, Texas 78044-2189
(w/o enclosures)

²Though you contend that section 552.101 exempts the requested information, you have not shown how this exception applies to the information requested. See Open Records Decision No. 542 (1990).