



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 20, 1995

Mr. James T. Jeffrey, Jr.  
Remington & Jeffrey  
1306 W. Abram  
Arlington, Texas 76013-1711

OR95-1529

Dear Mr. Jeffrey:

You have asked 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# 37554.

The Housing Authority of the City of Waco (the "authority") received a request for "copies of the Directors and Officers Insurance [sic] Policies and all amendments for the Federal fiscal years 1992, 1993, 1994 and the present." You have submitted to this office for review documents held by the authority that are responsive to the request. You contend that the documents at issue are excepted from disclosure under section 552.103(a).

To show the applicability of section 552.103(a), a governmental entity must show 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. This office was provided a petition and other information showing that the authority is a party to pending litigation. Our review of the records at issue shows that these records are related to the subject of the litigation. Since the authority has shown the applicability of section 552.103(a), the records at issue may be withheld from disclosure.

In making this determination, we note that you have indicated that the documents at issue have not been seen by the opposing party to the litigation. Generally, 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 No. 349 (1982) at 2. If the opposing party in the litigation has seen or had access to any of the information in these records, there would be no justification for now withholding those records from disclosure pursuant to section 552.103(a). Also, 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) at 3.

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 may not be relied upon as a previous determination under section 552.301<sup>1</sup> regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Todd Reese". The signature is fluid and cursive, with a long horizontal line extending to the right.

Todd Reese  
Assistant Attorney General  
Open Records Division

RTR/rho

Ref.: ID# 37554

Enclosures: Submitted documents

cc: Mr. James T. Hitt  
c/o Kenneth W. Byford  
Byford & Associates, P.C.  
4245 N. Central Expressway, Suite 410, LB 123  
Dallas, Texas 75205  
(w/o enclosures)

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<sup>1</sup>Act of May 29, 1995, 74th Leg., R.S., ch. 1035, § 18, 1995 Tex. Sess. Law Serv. 5127, 5139.