



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 21, 1995

Mr. Robert B. Ash
Assistant City Attorney
The City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR95-1575

Dear Mr. Ash:

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# 37068.

The City of El Paso (the "city") received a request for various information. You seek to withhold from required public disclosure portions of information that appear in correspondence from the city to an independent accounting firm. These portions contain an assessment of pending cases concerning claims brought against the city, evidently supplied by the city's outside counsel. You assert that these portions are excepted from disclosure based on sections 552.103 and 552.107(1) of the Government Code.

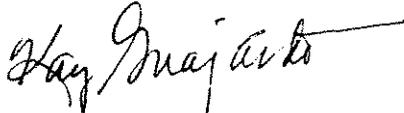
Section 552.103(a) applies to information:

- (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 requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). 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 city may withhold the requested records from required public disclosure based on section 552.103 of the Government Code.¹

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

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 37068

Enclosures: Submitted documents

cc: Mr. Patrick C. McDonnell
Reporter
El Paso Herald-Post
P.O. Box 20
El Paso, Texas 79999
(w/o enclosures)

¹We note that if the opposing parties in the litigation have seen or had access to any of the information in these records, there would be 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). Finally, because we conclude that you may withhold the information at issue under section 552.103, we need not address your section 552.107(1) claim at this time.