



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 25, 1996

Ms. Martha McCabe
General Counsel
Texas General Land Office
Stephen F. Austin Building
1700 North Congress Avenue
Austin, Texas 78701-1495

OR96-0078

Dear Ms. McCabe:

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# 35560.

The Texas General Land Office received a public information request from Mr. Daniel L. Wilson, P.E., for certain records that you contend may be withheld from the public pursuant to the Open Records Act, section 552.103(a) of the Government Code. To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 (1991) at 1. 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 requested records may therefore be withheld.

In reaching this conclusion, however, we assume that the opposing parties to the litigation have not previously had access to the records at issue; absent special circumstances, once information has been obtained by all opposing 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). 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). 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).

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

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy", with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/ch

Ref.: ID# 35560

Enclosures: Submitted documents

cc: Mr. Daniel L. Wilson, P.E.
Platt, Sparks & Associates
925-A Capital of Texas Hwy. S.
Austin, Texas 78746
(w/o enclosures)