



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 1, 1996

Mr. Gary F. Chatham
City Attorney
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR96-0475

Dear Mr. Chatham:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 23683.

The City of Plano (the "city") received a request for the results of noise level testing conducted at a firing range used by the city. You contend that the noise level testing results may be withheld from disclosure pursuant to the Open Records Act, section 552.103(a) of the Government Code.

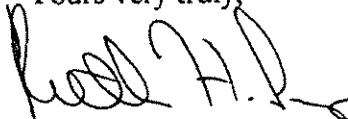
To secure the protection of section 552.103(a), a governmental body must demonstrate that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You have informed this office that litigation was pending. Our review of the records at issue indicates they are related to that litigation. Thus, you have shown that section 552.103(a) is applicable.

We note, however, that section 552.103(a) is not applicable if the litigation has concluded or if the other party to the litigation has already had access to the information at issue. Attorney General Opinion MW-575 (1982) at 2; Open Records Decisions Nos. 350 at 3 (1982); 349 (1982) at 2.

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". The signature is fluid and cursive, with a prominent initial "R" and "S".

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/kko/ch

Ref.: ID# 23683

Enclosures: Submitted documents

cc: Ms. Susan Barilich
3500 Fountain Place
1445 Ross Avenue
Dallas, Texas 75202
(w/o enclosures)