



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 10, 1996

Ms. Marva Gay
Assistant County Attorney
Harris County
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR96-0521

Dear Ms. Gay:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39546.

Harris County (the "county") received a request for the criteria used by the county engineer to fire employees in October of 1995. You provided information showing that a complaint alleging race and age discrimination was filed with the Equal Employment Opportunity Commission ("EEOC") as a result of the firings. You assert that the criteria used to decide which employees to fire should be excepted from disclosure pursuant to section 552.103(a) of the Government Code.

Section 552.103(a) provides an exception for information relating to litigation to which the governmental body is or may be a party. 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 provided this office the EEOC complaint and a document showing the criteria used in the firings. This office has held that the pendency of a complaint before the EEOC indicates a substantial likelihood of potential litigation. Open Records Decision Nos. 386 (1983); 336 (1982); 266 (1981). Our review of the document indicates it is related to the anticipated litigation for purposes of section 552.103(a). You may withhold the document at issue from disclosure pursuant to section 552.103(a).

Absent special circumstances, once information has been obtained by the opposing party to the anticipated litigation, no section 552.103(a) interest exists with respect to that information. Open Records Decision No. 349 (1982) at 2. The applicability of section 552.103(a) also generally also ends when the litigation is concluded. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 350 (1982) at 3; 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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 39546

Enclosures: Submitted document

cc: Mr. Martin Rodriguez
8555 Pool Creek
Houston, Texas 77095
(w/o enclosures)