



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 1, 1996

Mr. Richard Ybarra
Assistant Attorney General/Open Records Coord.
General Counsel Division, MC-018
Office of Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR96-1061

Dear Mr. Ybarra:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 40128.

The Office of the Attorney General (the "OAG") received a public information request for certain records that you contend may be withheld from the public pursuant to section 552.103(a) of the Government Code.¹ 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.

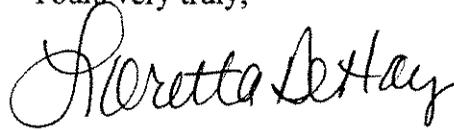
In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103(a) 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,

¹You state, however, that some responsive documents have been released to the requestor.

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/RWP/rho

Ref.: ID# 40128

Enclosures: Submitted documents

cc: Ms. Karen McManus
P.O. Box 81
Smyer, Texas 79367
(w/o enclosures)