



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 3, 1996

Ms. Y. Qiyamah Taylor
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR96-1070

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100059.

The City of Houston (the "city") received a request for the "preliminary report" on a traffic accident that involved a city vehicle and resulted in the death of the driver of another vehicle. The requestor has also asked to inspect the city vehicle that was involved in the accident. You have submitted the requested documents to this office for our review, and you claim that they are exempted from disclosure by section 552.103 of the Government Code. You have denied the requestor access to the city vehicle, because you do not believe that chapter 552 of the Government Code governs inspection of vehicles.

Section 552.103(a) excepts from disclosure information relating to litigation to which the city is or may be a party. The city has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the city must show 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 contend that the city reasonably anticipates litigation relating to the traffic accident, and you have provided us with sufficient information to support this contention. The requested documents relate to this anticipated litigation. Therefore, the city has demonstrated that section 552.103 is applicable to the requested documents. We note, however, the requestor's belief that the news media has viewed the requested documents. You state that the city will provide to the requestor any documents that it has previously released. The city must do so in order to comply with section 552.007 which prohibits

selective disclosure of information.¹ We conclude that the city may withhold from disclosure under section 552.103 all of the requested documents that the city has not previously released to the public.²

Finally, a vehicle is not "public information" as that term is defined in section 552.002. Consequently, we agree with the city's assertion that chapter 552 of the Government Code does not give the requestor a right to inspect a city vehicle.

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,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref.: ID# 100059

Enclosures: Submitted documents

cc: Mr. Alvaro J. Iglesias
Olinde & Iglesias, P.C.
4888 Loop Central Drive
Houston, Texas 77081
(w/o enclosures)

¹Section 552.007 of the Government Code provides:

(a) This chapter does not prohibit a governmental body or its officers for public information from voluntarily making part or all of its information available to the public, unless the disclosure is expressly prohibited by law or the information is confidential under law.

(b) Public information made available under Subsection (a) must be made available to any person.

²We note that once all parties to litigation have gained access to the information at issue, through discovery or otherwise, section 552.103(a) is no longer applicable. Open Records Decisions Nos. 551 (1990), 454 (1986). Further, once the litigation has concluded, section 552.103(a) is no longer applicable. Open Records Decision No. 350 (1982).