



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 16, 1996

Ms. Diane C. Wetherbee
City Attorney
P.O. Box 860358
Plano, Texas 75086-0358

OR96-1152

Dear Ms. Wetherbee:

You have asked this office to determine whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100631.

The City of Plano (the "city") received a request for "all documents pertaining to billing by the law firm of Figari & Davenport," including invoices, in regard to a pending lawsuit. You have already provided the requestor with certain information about invoices paid by the city. You assert that other information responsive to her request is excepted from disclosure pursuant to 552.103(a).

To show that section 552.103(a) is applicable, a governmental body 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 have demonstrated that litigation is pending and that the information at issue is generally related to that litigation. The documents at issue may generally be withheld from disclosure.

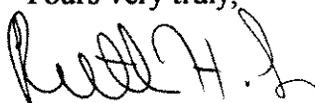
We note, however, that many of the documents at issue are billing records that consist of a form cover letter, information showing the amounts billed, and details as to what work was done. We agree that the portions of the billing records showing specific details of work performed in connection with the pending litigation may be withheld from disclosure pursuant to section 552.103(a). We have marked sample documents to show

you the types of information that may be withheld from disclosure pursuant to section 552.103(a).¹

We note that the applicability of section 552.103(a) to this information ends if the opposing party obtains the information, through discovery or otherwise, and when the litigation ends. Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 350 (1982) at 3; No. 349 (1982) at 2. We also note that since the section 552.103(a) exception is discretionary with the governmental entity asserting the exception, it is within the city's discretion to release this information to the requestor. Gov't Code § 552.007; Open Records Decision No. 542 (1990) at 4.

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 may 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# 100631

Enclosures: Marked documents

cc: Ms. Anita Hernandez
1717 Lucas Terrace
Plano, Texas 75074
(w/o enclosures)

¹You also asserted that section 552.107(1) is applicable to the documents at issue. Section 552.107(1) protects from disclosure information that reveals client confidences to an attorney or that reveals the attorney's legal advice, opinion, and recommendation. See Open Records Decision No. 574 (1990). We have already determined that section 552.103(a) protects from disclosure the descriptive information that might be protected from disclosure pursuant to section 552.107(1). None of the information we have marked to be released is excepted from disclosure pursuant to section 552.107(1).