



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 24, 1996

Ms. Lan P. Nguyen
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251

OR96-1742

Dear Ms. Nguyen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100792.

The City of Houston (the "city") received a request for the following information:

- a) All documents evidencing repairs to and/or inspection of the street located at or about 6612 Goforth Street, Houston, Texas 77021, and
- b) Please identify any and all complaints, claims or lawsuits filed since October 13, 1994 to present regarding injuries that occurred on the street located at or about 6612 Goforth Street, Houston, Texas 77021.

You have released some of this information to the requestor. You contend that the remaining information, which you have submitted to this office for review, is excepted from disclosure pursuant to section 552.103 of the Government Code.

Section 552.103(a) excepts from disclosure information:

- (1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and
- (2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

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 have demonstrated that the city reasonably anticipates litigation concerning an accident that occurred at 6612 Goforth Street. You have also shown that the information at issue relates to the reasonably anticipated litigation. Accordingly, the city may withhold the information at issue from disclosure under section 552.103 of the Government Code.¹

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 100792

Enclosures: Submitted documents

cc: Ms. Mattie R. Ashley
Attorney at Law
11811 North Freeway, Suite 630
Houston, Texas 77060
(w/o enclosures)

¹We note that if the opposing parties in the anticipated litigation have seen or had access to any of the information at issue, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). Of course, the city has discretion to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.