



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 21, 1996

Mr. Mark S. Houser
Vial, Hamilton, Koch & Knox
1717 Main Street, Suite 4400
Dallas, Texas 75201-7388

OR96-1903

Dear Mr. Houser:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101278.

The City of McKinney (the "city") received a request for information pertaining "to the proposed preliminary replat of 401 lots on 104.39 acres, generally known as the Villages of Lake Forest, a residential subdivision." We note that you are providing some of the requested information to the requestor. However, you seek to withhold the remaining requested information under section 552.103 of the Government Code.

Section 552.103(a) provides that information may be excepted from public disclosure if it is 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.

To secure the protection of section 552.103(a), a governmental entity must first 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 litigation is reasonably anticipated based upon the requestor's allegations of criminal conduct and a demand to inspect records. However, you have not shown that litigation is pending or reasonably anticipated in this situation. Since you have not shown that section 552.103(a) is applicable to the records at issue, they must be released.

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/SAB/ch

Ref.: ID# 101278

Enclosures: Submitted documents

cc: Mr. Robert L. McCallum
4560 Belt Line Road, Suite 320
Dallas, Texas 75244
(w/o enclosures)