



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 30, 1996

Mr. Robert J. Gervais
Assistant City Attorney
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR96-2465

Dear Mr. Gervais:

You have asked this office to determine if certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102720.

The City of Galveston (the "city") received a request for information about franchise agreements and related documentation. You indicate that the city has supplied the requestor with most of the documents which are responsive to the request, however, you contend that some of the documents are excepted from disclosure pursuant to sections 552.103(a) and 552.107(1) of the Government Code.

To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the 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 provided this office with copies of the records at issue. You also provided documents that show litigation involving the city is pending. Our review of the submitted records shows that they are related to the pending litigation. Thus, the records at issue may be withheld from disclosure pursuant to section 552.103(a).¹

¹As the records at issue may be withheld from disclosure pursuant to section 552.103(a), we need not address your section 552.107(1) argument at this time. We note, however, that once information has been obtained by all parties to the litigation, in discovery or otherwise, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Also, the applicability of section 552.103(a) generally ends once the pending litigation concludes. 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 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# 102720

Enclosures: Submitted documents

cc: Ms. Tammy Fiebelkorn
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Boulder, Colorado 80302
(w/o enclosures)