



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 9, 1997

Ms. Joanne Wright
Associate General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Building
125 East 11th Street
Austin, Texas 78701-2483

OR97-1323

Dear Ms. Wright:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 106757.

The Texas Department of Transportation (the "department") received a request for information relating to the condemnation of a certain property. You advise that "information that has already been released to other parties to the litigation is being released to [the requestor]." You claim that the remainder of the requested information is excepted from required public disclosure under sections 552.103 and 552.105 of the Government Code.

To be excepted under section 552.103, the department must demonstrate 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 state that the requestor is a party to pending litigation and that the Office of the Attorney General is preparing to file a condemnation case in the Harris County district court. The documents show that the property is being processed for eminent domain proceedings. We conclude that you have met your burden under section 552.103. Accordingly, you may withhold the submitted information under section 552.103(a) of the Government Code.

We note, however, that section 552.103(a) is not applicable if the condemnation action has concluded or if the property in dispute has otherwise been obtained by the department. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 350 (1982) at 3, 349 (1982) at 2.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref.: ID# 106757

Enclosures: Submitted documents

cc: Mr. Mike Hebert
President
Texas Marine
1140 IH-10 North
Beaumont, Texas 77702
(w/o enclosures)