



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 19, 1997

Mr. Hollis D. Young  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR97-2094

Dear Mr. Young:

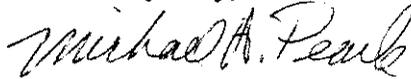
You seek reconsideration of Open Records Letter No. 97-1423 (1997), in which this office determined that the Texas Open Records Act, Government Code chapter 552, required the City of San Antonio (the "city") to make certain information available to the requestor. We have assigned your request for reconsideration ID# 108718.

The City of San Antonio (the "city") received a request for information relating to a Dover Freight Elevator located in the Lila Cockrell Theatre. You contend that the requested information relates to a "negligence claim" against the city and is, therefore, excepted from disclosure under section 552.103(a) of the Government Code.

In Open Records Letter No. 97-1423 (1997), this office ruled that the city had not met its burden under section 552.103(a) in establishing that (1) litigation is either pending or reasonably anticipated, and that (2) the requested information relates to that litigation. *See 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. *See also* Open Records Decision No. 638 (1996) (fact that governmental body received claim letter that it represents to this office to be in compliance with notice requirements of TTCA or applicable municipal ordinance shows that litigation is reasonably anticipated). We have examined your request for reconsideration. Although you have provided us with additional arguments in an attempt to demonstrate the applicability of section 552.103 to the requested information, these arguments should have been made in connection with the original request for an opinion from this office. *See Gov't Code § 552.301(b)(1)* (governmental body must submit to attorney general written comments stating reasons why stated exceptions apply within fifteen calendar days after date of receiving written request for information). Therefore, we decline to reconsider our ruling in Open Records Letter No. 97-1423 (1997). If you have questions about this ruling, please contact our office.

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,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/ch

Ref: ID# 108718

cc: Mr. S. Tyler Rutherford  
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