



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 1, 1997

Mr. Steven W. Arronge
Deputy City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR97-2620

Dear Mr. Arronge:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 110529.

The City of San Antonio (the "city") received a request for several categories of information pertaining to a proposed drainage project. The city has provided the requestor with the name of the contractor who was awarded the project, but seeks to withhold from disclosure the other requested information. You assert that the information relates to a pending condemnation suit and is excepted from disclosure under section 552.103(a) of the Government Code. Representative samples of the documents at issue were submitted to this office for review.¹

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. The governmental entity must meet both prongs of this test for information to be excepted under section 552.103(a). You have shown that litigation involving the city is pending. Our review of the documents at issue shows that they are related to the underlying litigation. Thus, the records may be withheld from disclosure pursuant to section 552.103(a).

In making this determination, we assume that the opposing party in the litigation has not seen or had access to the records at issue. Once information has been obtained by all

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

parties to the litigation, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). The applicability of section 552.103(a) also ends once the litigation has concluded. 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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 110529

Enclosures: Submitted documents

cc: Mr. Michael Groomer
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(w/o enclosures)