



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 11, 1997

Ms. Tana K. Van Hamme  
The Ronquillo Law Firm, P.C.  
1999 Bryan Street, Suite 3450  
Dallas, Texas 75201

OR97-2726

Dear Ms. Van Hamme:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 111334.

The Dallas Independent School District (the "school district"), which you represent, received a request for all "invoices, documents, contracts, and signatories thereof, involving Time Saving Construction Co. and its representatives." You contend that the requested documents are excepted from disclosure pursuant to section 552.103(a) of the Government Code. You have submitted representative samples of the requested documents to this office for review.<sup>1</sup>

Section 552.103(a) of the Government Code excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must 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 have established that the school district is a party to pending litigation, *Dallas Independent School District v. William M. Risby*, No. 97-08578 (162<sup>nd</sup> Dist. Ct., Dallas County, Tex., Sept. 19, 1997). You have also explained how the documents at issue are related to the pending litigation.

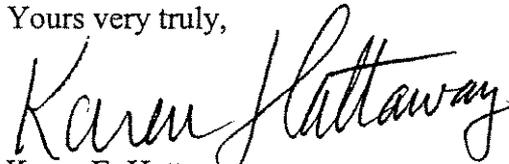
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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

We note, however, that if the opposing parties in the litigation have seen or had access to the documents at issue, there would be no justification for withholding the documents from disclosure pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). It appears that most, if not all, of the submitted documents were obtained from or have been seen by the opposing party in the litigation. The school district may only withhold from disclosure those documents to which the opposing party has not previously had access. Finally, we note that the applicability of section 552.103(a) ends once the litigation has been 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 upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 111334

Enclosures: Submitted documents

cc: Mr. Shaun Robb  
Reporter  
Fox 4 News  
400 N. Griffin Street  
Dallas, Texas 75202  
(w/o enclosures)