Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 6, 1998

Mr. John Steiner
Division Chief
City of Austin - Law Department
P.O. Box 1088
Austin, Texas 78767

OR98-0359

Dear Mr. Steiner:

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# 112351

The City of Austin (the "city") received a request for a variety of information related to Asplundh Tree Expert Company as a contractor with the city. You state that the bulk of the requested information has been made available to the requestor, but assert that the remaining information is excepted from disclosure pursuant to section 552.103 of the Government Code. We have considered your arguments and have reviewed the information submitted.[1]

Section 552.103(a) excepts from disclosure information:

> (1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

[1]We assume that the "representative samples" of records submitted to this office are 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.

> (2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

In your brief to this office, you state that "[a] number of claims inevitably arise with regard to periodic tree trimming necessary for the maintenance of electric lines. The City endeavors to settle these without the need for litigation, but that likelihood is, of course, the basis for each claim. While the claims are pending, the City's position in settlement negotiations requires that the claims files be closed to public view." Upon review of the submitted information, we are unable to determine which, if any, of the submitted claim files are currently the subject of pending settlement negotiations. On the contrary, the submitted information includes numerous files where the city has paid a check to claimants in full payment of damages in the amount requested by the claimant. We, therefore, conclude the city has failed to demonstrate the applicability of section 552.103 to the requested information, and thus, this information must be released to the requestor. *See* Open Records Decision Nos. 245 (1980), 139 (1976) (final terms of settlement agreement are not excepted by section 552.103). *See also* Gov't Code §552.022(18).

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

Michael A. Pearle

Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 112351

Enclosures: Submitted documents

cc: Mr. William Bunch
Attorney at Law
1307 Oxford
Austin, Texas 78704
(w/o enclosures)