



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 7, 1998

Mr. Jim Finley  
City Attorney  
City of Big Spring  
310 Nolan  
Big Spring, Texas 79720

OR98-1171

Dear Mr. Finley:

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# 114742.

The City of Big Spring (the "city") received a request for information concerning certain burial plots purchased by a specified person involved in a claim for an alleged negligent burial. You contend, however, that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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

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. You have shown that litigation is reasonably anticipated. Our review of the documents at issue shows these records are related to the anticipated litigation.

Thus, you may withhold the documents for which you assert the section 552.103(a) exception. We note, however, that once information has been obtained by all 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). You may withhold the records at issue that the opposing party to the anticipated litigation has not seen or had access to. 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,



Janet J. Monteros  
Assistant Attorney General  
Open Records Division

JIM/alg

Ref.: ID# 114742

Enclosures: Submitted documents

cc: Ms. Nellie Thompson  
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Big Spring, Texas 79720  
(w/o enclosures)

Ms. Francine Thompson Jansch  
1500 Stadium  
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(w/o enclosures)