



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 1, 1998

Ms. Amanda Paquet Garza
Haynes and Boone, L.L.P.
201 Main Street, Suite 2200
Fort Worth, Texas 76102-3126

OR98-1366

Dear Ms. Garza:

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# 115625.

The City of Burleson (the "city") received a request for certain information regarding a particular employee. You claim 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), the "litigation exception," excepts from disclosure information relating to litigation to which the state is or may be a party. The city has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing 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. The city must meet both prongs of this test for information to be excepted under section 552.103(a).

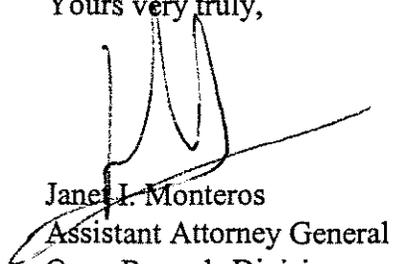
You have included, along with the responsive information submitted to this office, a copy of a pleading styled, *Mattix vs. Hightower, et al*, No. 3:96-CV-0015-R presently before the United States District Court for the Northern District of Texas, Dallas Division. After reviewing the documents, we conclude that they are related to the litigation. Therefore, the city may withhold the requested documents under section 552.103. We note that when the opposing party in the litigation has seen or had access to any of the information in these records, there is no justification for withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982).¹ In addition,

¹It appears that some of the records submitted may have already been seen by the requestor.

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 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 L. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref.: ID# 115625

Enclosures: Submitted documents

cc: Mr. Ray Mattix
2228 Huntington Lane
Fort Worth, Texas 76110
(w/o enclosures)