



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 28, 1998

Mr. Hugh W. Davis, Jr.
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102-6311

OR98-2522

Dear Mr. Davis:

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# 119044.

The City of Fort Worth (the "city") received a request for documents relating to "Cindy McGuire and the coat." You assert that the requested information is excepted from required public disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the submitted documents.

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

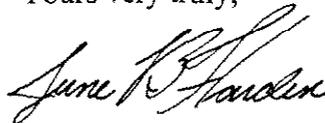
(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). A contested case under the Administrative Procedure Act ("APA") is litigation for purposes of section 552.103(a). Open Records Decision No. 588 (1991). The hearing at issue concerns a firefighter's appeal

of a promotional passover. It does not appear that this hearing is a contested case under the APA. Nor have you otherwise established that this hearing should be considered litigation for the purposes of section 552.103(a). Consequently, you may not withhold the requested documents under section 552.103(a).

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 119044

Enclosures: Submitted documents

cc: Mr. Artie M. Dawson
721 Thompson
Everman, Texas 76140
(w/o enclosures)