



February 19, 1999

Mr. Tracy Pounders
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR99-0509

Dear Mr. Pounders:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122243.

The City of Dallas (the "city") received a request for certain information regarding the "Dallas Arena" project, a proposed downtown sports and entertainment facility. You seek to withhold portions of the requested information under sections 552.103, 552.105, 552.107(1), 552.111, and 552.305 of the Government Code. You have submitted representative samples of the information at issue.¹

Section 552.103(a) excepts from required public 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

¹In reaching our conclusion, 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 No. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). 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.

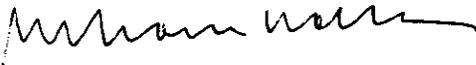
(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

You advise that the city is currently a party to condemnation proceedings on five tracts of "Arena-related real property" and provide the styles and cause numbers of such proceedings. Having examined the submitted information, we conclude that it relates to the condemnation proceedings. Therefore, you may withhold the information at issue under section 552.103(a).

Please note, however, that absent special circumstances, once information has been obtained by all parties to the litigation, either through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). To the extent the opposing parties have all seen or had access to these records, there would be no justification for now withholding such information from the requestor pursuant to section 552.103(a). Similarly, section 552.103(a) does not authorize the city to withhold materials which have already been made available to the public. Open Records Decision No. 436 (1986). Finally, the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982), Open Records Decision No. 350 (1982).

Since we have disposed of this request under section 552.103(a), we need not address your other arguments for withholding the information at issue. 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.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref.: ID# 122243

Enclosures: Submitted documents

cc: Ms. Elaine Bliss
828 Sugarberry
Coppell, Texas 75019
(w/o enclosures)