



August 18, 1999

Ms. Martha T. Williams  
General Counsel  
Port of Houston Authority  
P.O. Box 2562  
Houston, Texas 77252-2562

OR99-2235

Dear Ms. Williams:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128143.

On July 16, 1999, the Port of Houston Authority (the "authority") received a request for certain records from Ms. Devalyn Rogers. You claim that they are excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The request is identical in form and substance to the request from Mr. I. Scott Green on June 15, 1999, which this office determined you may withhold under section 552.103 in Open Records Letter No. 99-1980 (1999). You assert the same arguments as you did in Open Records Letter No. 99-1980; that is, the requested information is excepted from required public disclosure pursuant to section 552.103 of the Government Code. As this office has previously issued a decision regarding the requested documents in Open Records Letter No. 99-1980, we will adhere to that decision.

In reaching this conclusion, however, we assume that the underlying circumstances at the time of the first request have not changed and the opposing party to the anticipated litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). If the opposing parties in the anticipated litigation have seen or had access to any of the information in these records, there would be

no justification for now withholding that information from the requestor pursuant to section 552.103(a). We also note that 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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sue M. Lee", with a long horizontal flourish extending to the right.

Sue M. Lee  
Assistant Attorney General  
Open Records Division

SML\nc

Ref: ID# 128143

encl: Submitted documents

cc: Ms. Davalyn Rogers  
1701 Ruth  
Houston, Texas 77004  
(w/o enclosures)