



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 26, 1995

Mr. James W. Deatherage
Power & Deatherage
1311 West Irving Boulevard
Irving, Texas 75061-7220

OR95-474

Dear Mr. Deatherage:

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# 30472.

The Irving Independent School District (the "district") has received a request for a copy of an appraisal obtained in order to acquire the requestor's property for public school purposes. You have submitted the requested information and claim that the information is excepted from disclosure pursuant to sections 552.103, 552.105, and 552.107 of the Government Code.

Section 552.103(a) excepts 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 be excepted under section 552.103(a), information must relate to litigation that is pending or reasonably anticipated. *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 inform us that the property acquisition is currently subject to appeal in commissioner's court. We, therefore, conclude that the district may withhold the requested report pursuant to section 552.103 of the Government Code. We assume that the opposing party has not previously had access to the requested report. Once information has been obtained by all parties to the litigation, for example, 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 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 note, however, that the applicability of section 552.103(a) ends once litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). After litigation has concluded, the information is subject to required public disclosure, unless excepted from disclosure by some other provision of the Open Records Act. *Id.*¹

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/LMM/rho

Ref.: ID# 30472

Enclosures: Submitted documents

cc: Ms. Charlene Wilcox
1527 East Pioneer Drive
Irving, Texas 75061
(w/o enclosures)

¹As you may withhold the information under section 552.103, we need not address your claims under sections 552.105 and 552.107 of the Government Code.