



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Ms. Barbara E. Roberts
City Attorney
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR95-871

Dear Ms. Roberts:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. We assigned your request an identification number, ID# 34265.

The City of Galveston (the "city") has received a request for "[c]opies of any notice, memorandum or letters to any employee or representative of the City of Galveston from anyone from the law firm of Mills, Shirley, Eckel and Bassett in regard to any City of Galveston employee or agent violating any civil or criminal laws in reference to" a lawsuit, *Gulf Coast Dodge, Inc. v. Bosworth*, 879 S.W.2d 152 (Tex. App.--Houston [14th Dist.] 1994, no writ). Although the *Bosworth* case is completed, you inform us that the requested information relates to another pending lawsuit against the city, *A & A Wrecker Service, Inc. v. City of Galveston*, No. G-95-111. You therefore claim the city may withhold the requested information under section 552.103 of the Government Code. You have submitted a copy of the requested information for our review. See Gov't Code § 552.303.

Section 552.103(a) of the Government Code 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

(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. See Open Records Decision No. 551 (1990) at 4.

We have reviewed the submitted documents, and we conclude that they relate to the pending litigation. Consequently, the city may withhold the requested information from the requestor under section 552.103. Absent special circumstances, however, once all parties to litigation have obtained information, *e.g.*, through discovery or otherwise, a governmental body has no section 552.103(a) interest to justify withholding that information. Open Records Decision Nos. 349 (1982) at 2, 320 (1982) at 1. Furthermore, once litigation is concluded, the section 552.103(a) exception no longer applies. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision No. 350 (1982) at 3.

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 may not be relied upon as a previous determination under section 552.301 of the Government Code regarding any other records. If you have questions about this ruling, please contact this office.

Yours very truly,



Kimberly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/RHS/rho

Ref.: ID# 34265

Enclosures: Submitted documents

cc: Mr. Blu Shields
P.O. Box 2550
Galveston, Texas 77553-2550
(w/o enclosures)