



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 27, 1995

Mr. Tom Dirickson
Hayes, Coffey & Berry
P.O. Box 50149
Denton, Texas 76206

OR95-986

Dear Mr. Dirickson:

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# 32177.

The Denton Independent School District received a request for information relating to the detachment of the Canyon Oaks Subdivision. You have submitted documents labeled as Exhibits "A" through "L." You contend that Exhibits "G," "H," "I," and "J" are excepted from required public disclosure under section 552.103 of the Government Code. You also claim that part of Exhibit "G" is excepted from required public disclosure under section 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. 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). Finally, 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).

Although you have demonstrated that Exhibits "G" through "J" relate to reasonably anticipated litigation, many of the documents contained in Exhibit "G" have been seen by the opposing party to the anticipated litigation. This information may not be withheld under section 552.103. For your convenience, we have marked the information that must be released.¹ The remaining information may be withheld under section 552.103 of the Government Code.

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 Records Division

KHG/LBC/rho

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¹We note that one document appears to be a copy of a notice for an open meeting of the school board. As the notices for open meetings are required to be publicly displayed by statute, Gov't Code § 551.043, the opposing party had access to this information. You may not withhold this document.

Enclosures: Marked documents

cc: Ms. Joanne Winterhalter
240 Canyon Oaks Drive
Argyle, Texas 76226
(w/o enclosures)