



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 21, 1995

Ms. Julie Pachares  
Assistant City Attorney  
The City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR95-1577

Dear Ms. Pachares:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 24775.

The City of Midland (the "city") has received a request for information relating to the death of a boy who was killed when a soccer goal post fell on him. Specifically, the requestor seeks police reports, witness statements, photographs of the accident site and the victim, and any other information concerning the boy's death. You have submitted the requested information to us for review and claim that sections 552.101 and 552.103(a) of the Government Code exempt it from required public disclosure.

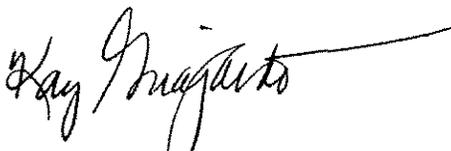
To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. *See generally* Open Records Decision No. 551 (1990). In this instance, you have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 552.103(a). The city therefore may withhold the requested records. *See* Open Records Decision No. 281 (1981) at 1-2.

In reaching this conclusion, however, we assume that the opposing party to the anticipated litigation previously has not had access to the records at issue; absent special circumstances, once all parties to the litigation have obtained information, *e.g.*, through discovery or otherwise, no section 552.103(a) interest exists with respect to that

information. *See* Open Records Decision Nos. 349 (1982) at 2 (construing statutory predecessor to Government Code section 552.103(a)), 320 (1982) at 1 (same). If the opposing parties in the anticipated litigation have seen or had access to any of the information in these records, no justification exists 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 concluded. *See* Open Records Decision No. 350 (1982) at 3. As we conclude that section 552.103(a) applies to the requested information, we need not consider at this time the arguments you have made concerning the applicability of section 552.101 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 may not be relied upon as a previous determination 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/GCK/rho

Ref.: ID# 24775

Enclosures: Submitted documents

cc: Mr. Marshall E. Ward  
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(w/o enclosures)