



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 11, 1996

Mr. Jerry E. Drake, Jr.  
Assistant City Attorney  
City of Denton  
215 East McKinney  
Denton, Texas 76201

OR96-1865

Dear Mr. Drake:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101106.

The City of Denton (the "city") received a request for information presumably maintained by the city's Code Enforcement Department "of all communications directed to various persons relative to 'Trash and Debris,' or other similar circumstances on property in the City of Denton" and other related information. You claim that the request is vague, and that, to the extent that the city does understand the request for information, the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.<sup>1</sup>

Numerous opinions of this office have addressed situations in which a governmental body has received either an "overbroad" written request for information or a written request for information that the governmental body is unable to identify. Open Records Decision No. 561 (1990) at 8-9 states:

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<sup>1</sup> In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

Gov't Code § 552.222(b) (governmental body may ask requestor to clarify request if request for information is unclear). Therefore, in response to the request at issue here, the city must make a good-faith effort to relate the request to information in the city's possession and must help the requestor to clarify his request by advising him of the types of information available. However, a request for records made pursuant to the Open Records Act may not be disregarded simply because a citizen does not specify the exact documents he desires. Open Records Decision No. 87 (1975).

Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state is or may be a party. The city has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *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. The city must meet both prongs of this test for information to be excepted under section 552.103(a).

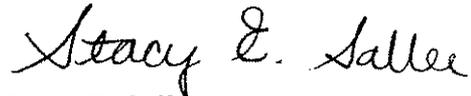
The city has met the first prong of the section 552.103 test by submitting copies of complaints filed by the requestor against the city. We have reviewed the information submitted as Exhibit "2" and conclude that it relates to the pending litigation. Therefore, the city may withhold the information under section 552.103.

We note that when the opposing party in the litigation has seen or had access to any of the information in these records, there is no justification for withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, 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 on as a previous

determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/ch

Ref.: ID# 101106

Enclosures: Submitted documents

cc: Mr. R. B. Melton, Jr.  
Box 8102  
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(w/o enclosures)