



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 13, 1997

Ms. Y. Qiyamah Taylor
Assistant City Attorney
P.O. Box 1562
Houston, Texas 77251-1562

OR97-0845

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 34597.

The City of Houston (the "city") received a request for a copy of the color chart sequence for the traffic light at the intersection of 21761 West Sam Houston Parkway North Service Road (northbound) and Bellaire (eastbound). You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code.

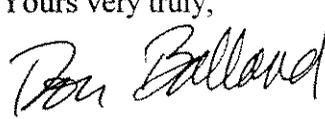
Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state is or may be a party. The city has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. 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).

You state that a lawsuit concerning the intersection that is the subject of the request is pending and have submitted a copy of the petition in that lawsuit. Therefore, the city has met the first prong of the section 552.103(a) test. After reviewing the documents submitted to this office for review, we conclude that they are related to the pending litigation. Consequently, the city may withhold the requested information under section 552.103(a).

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

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 34597

Enclosures: Submitted documents

cc: Ms. Tonja E. Sanchez
Adrian Almaguer, Attorney at Law
225 South Heights Boulevard
Houston, Texas 77007-5897
(w/o enclosures)