



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 30, 1997

Ms. Jennifer D. Soldano  
Associate General Counsel  
Texas Department of Transportation  
DeWitt C. Greer State Highway Bldg.  
125 E. 11th Street  
Austin, Texas 78701-2483

OR97-1240

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 106359.

The Texas Department of Transportation (the "department") received a request for "information and confirmation concerning who owns and maintains [a particular intersection]." You contend that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Initially we note that among the documents submitted to this office are municipal ordinances and resolutions. For compelling reasons of public policy, publicly-filed documents such as municipal ordinances cannot be withheld from disclosure even if they arguably fall within the scope of one of the exceptions to disclosure found in chapter 552 of the Government Code. *See* Open Records Decision No. 551 (1990) at 2-3. As for the other submitted documents, we will address your section 552.103 claim.

Section 552.103(a) excepts from 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

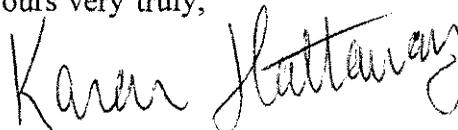
(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

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. Open Records Decision No. 551 (1990).

In Open Records Decision No. 638 (1996), this office stated that a governmental body may demonstrate that it reasonably anticipates litigation if it receives a notice of claim letter and represents to this office that the letter is in compliance with the requirements of the Texas Tort Claims Act, Civ. Prac. & Rem. Code, ch. 101, or an applicable municipal ordinance or statute. You state that the department has received three notices of claim relating to a traffic accident and that all three notices “meet the requirements of the Tort Claims Act.” Under these circumstances, we conclude that the department reasonably anticipates litigation relating to the accident. The traffic accident occurred at the intersection about which the requestor is seeking information. Because the requested information relates to the anticipated litigation, the department may withhold the information from disclosure pursuant to section 552.103 of the Government Code.<sup>1</sup>

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 106359

Enclosures: Submitted documents

cc: R.D. Sukolios  
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(w/o enclosures)

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<sup>1</sup>We note that if the opposing party in the anticipated litigation has seen or had access to the requested information, there would be no justification for withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). Furthermore, the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).