



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 12, 1998

Mr. Andrew A. Chance
Powell & Chance, L.L.P.
808 West Avenue
Austin, Texas 78701-2208

OR98-0114

Dear Mr. Chance:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 111448.

The Northeast Texas Community College (the "college") received a request for information and documents relating to the bondholder lists, transactions, and histories for all Northeast Texas Community College bonds held by New York Bank and Corporate Trust." 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 information at issue.¹

Section 552.103(a) excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show 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 college states that there is presently a lawsuit involving a whistle blower allegation, as well as other allegations, which names the Northeast Texas Community College District, most of the current members of the college's Board of Trustees, etc. The lawsuit is styled, *Wanda Schindley v. Northeast Texas Community College*, Cause No.

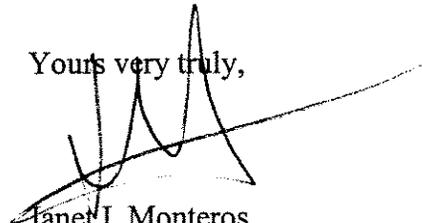
¹We observe that the requestor asks for other information in addition to the instant portion of the records and we presume that you have already made this information available to the requestor, if the information exists.

19,610 (276th Dist. Ct. Morris County, Tex., 1996). Additionally, you have shown a direct relationship between the information sought, and the pending litigation by providing a Request for Production served upon the college in the referenced litigation. Open Records Decision No. 429 (1985). Therefore, we conclude that the information requested is excepted from disclosure under section 552.103(a) and may be withheld.

However, 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 upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref: ID# 111448

Enclosures: Submitted documents

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