



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 21, 1998

Mr. Alan P. Petrov  
Johnson, Radcliffe & Petrov, L.L.P.  
Paragon Center One  
450 Gears Road, Suite 700  
Houston, Texas 77067-4513

OR98-1286

Dear Mr. Petrov:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115583.

The City of Bellaire (the "city"), which you represent, received a request for documents relating to a concession lease agreement. You claim that 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.

Initially, we note that among the documents you submitted to this office are copies of municipal ordinances. 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. Thus, the city must provide the requestor with the ordinances.

We now consider whether the remaining documents are excepted from disclosure. Section 552.103(a) of the Government Code 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. You have demonstrated that litigation is pending between the city and the Houston Hills Golf

Course. Having reviewed the requested information, we agree that it relates to the pending litigation. Thus, we conclude that the city may withhold the remaining information from disclosure pursuant to section 552.103(a).

We note, however, that if the opposing party in the pending litigation has seen or had access to any of the information in these documents, there would be *no justification* for withholding that information from disclosure 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 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,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref.: ID# 115583

Enclosures: Submitted documents

cc: Mr. Terry Williams  
Harris County Appraisal District  
P.O. Box 922005  
Houston, Texas 77292  
(w/o enclosures)