



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 25, 1998

Mr. Jay Youngblood
Attorney At Law
Henslee, Fowler & Hepworth
110 North College Avenue
Tyler, Texas 75702

OR98-2031

Dear Mr. Youngblood:

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# 118032.

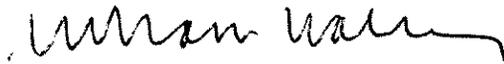
The Malakoff Independent School District (the "district"), which you represent, received an open records request for certain drainage maps that were prepared in connection with the construction of a new high school. You contend that the requested maps may be withheld from the public pursuant section 552.103 of the Government Code.

To secure the protection of section 552.103, a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 at 1 (1991). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103. The requested maps therefore may be withheld.

In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103 interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). If the opposing parties in the litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103. We also note that the applicability of section 552.103 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 questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/RWP/ch

Ref.: ID# 118032

Enclosures: Submitted documents

cc: Mr. Randy Reaves
Malakoff Nursery
P.O. Box 474
Malakoff, Texas 75148
(w/o enclosures)