



June 22, 1999

Ms. Susanna K. Holt
Assistant Attorney General
Executive Administration
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR99-1724

Dear Ms. Holt:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125103.

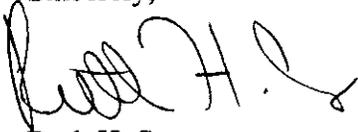
The Office of the Attorney General (the “attorney general”) received a request for communications between the attorney general and Pete Schenkkan and/or Texans for Reasonable Legal Fees. You assert that certain information is protected from disclosure under sections 552.101, 552.103, 552.107, and 552.111.¹ To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the litigation. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.--Austin, 1997, no pet.), *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 at 4 (1990). The governmental entity must meet both prongs of this test for information to be excepted under section 552.103(a).

¹We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

We have reviewed your arguments and agree that you have shown that litigation is pending. Our review of the submitted records shows that they are related to the litigation. Because the information at issue may be withheld from disclosure under section 552.103(a) of the Government Code, we need not address your other arguments against disclosure. We note, however, that once information has been obtained by all parties to the litigation, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). You may withhold the records at issue that the opposing parties to the anticipated litigation have not seen or had access to. Also, the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575, 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.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', written in a cursive style.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 125103

Encl. Submitted documents

cc: Mr. Andrew Wheat
Texans for Public Justice
609 West 18th Street, Suite E
Austin, Texas 78701
(w/o enclosures)