



October 22, 1999

Ms. Elsa Nava  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR99-2982

Dear Ms. Nava:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128539.

The City of San Antonio (the "city") received a request for the following: 1) copies of all complaints filed against River City Cabaret, Ltd. ("RCC") since January 1999 and copies of documents generated since January 1999 which relate to the city's enforcement efforts on RCC's premises; 2) copies of all open records requests the city has received relating to RCC and copies of the documents provided in response to those requests; and 3) copies of all San Antonio Police Department investigation reports and Strategic Nuisance Abatement Program crime analysis reports and investigation reports for four particular locations. You seek to withhold information responsive to items 1 and 3 from disclosure under section 552.103 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the information at issue.

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

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<sup>1</sup>We assume that you have provided the requestor with the information responsive to item 2 of the request to the extent such information exists..

is pending or reasonably anticipated, and (2) the information at issue is related to that 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 body must meet both prongs of this test for information to be excepted under 552.103(a).

You have shown that the information at issue relates to the city's pending lawsuit against RCC. *City of San Antonio v. River City Cabaret*, No. 99-CI-08627 (57<sup>th</sup> Dist. Ct., Bexar County, Tex. Jun. 16, 1999). Therefore, the city may withhold the information from disclosure under section 552.103. 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). We also note that the applicability of section 552.103 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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Kay H. Hastings  
Assistant Attorney General  
Open Records Division

KHH/ljp

Ref: ID# 128539

Encl. Submitted documents

cc: Mr. Randall Terrell  
Hill, Gilstrap, Adams & Graham  
1005 Congress Avenue, Suite 880  
Austin, Texas 78701  
(w/o enclosures)