



November 9, 1999

Mr. John Steiner
Division Chief
Law Department
City of Austin
P.O. Box 1546
Austin, Texas 78767-1546

OR99-3172

Dear Mr. Steiner:

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# 128680.

The City of Austin received an open records request for certain records that you contend may be withheld from the public pursuant to section 552.103(a) of the Government Code. To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a). The requested records may therefore be withheld from required public disclosure.

However, we note that no section 552.103(a) interest exists with respect to information that has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise. 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 is no justification for now withholding that information from the requestor pursuant to section 552.103(a). We have marked portions of the information to which the opposing party has apparently had access. We also note that 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 this 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 may 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# 128680

Encl. Submitted documents

cc: Mr. Daniel M. Anderson
Barron, Adler & Anderson, L.L.P.
808 Nueces Street
Austin, Texas 78701-2216
(w/o enclosures)