



November 12, 1999

Mr. Robert L. Kane
Office of General Counsel
The University of Texas System
210 West Seventh Street
Austin, Texas 78701-2902

OR99-3225

Dear Mr. Kane:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128763.

The University of Texas at Austin ("UT") received a request for the contract and correspondence pertaining to the agreement between UT and Ticketmaster Inc., which designates Ticketmaster, Inc. as the vendor and distributor of tickets for events at UT entertainment venues. You indicate that the contract is available for inspection and that you will provide a copy of this contract to the requestor on payment of authorized copying costs. You claim that the requested correspondence is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state or a political subdivision is or may be a party. To secure the protection of section 552.103(a), a governmental body has the burden of providing relevant facts and documents to show that (1) litigation 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 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.).

You assert that the subject information relates to the pending case, *The University of Texas at Austin v. Ticketmaster Corporation and Southwest Ticketing Inc.*, No. 9806839 353rd District Court, Travis County. To determine that the information relates to the anticipated or pending litigation, we follow the rule that "ordinarily, the words 'related to' mean 'pertaining to,' 'associated with' or 'connected with.'" *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.--Austin 1997, no pet.). From our review of the submitted information, we discern the issues of the pending litigation and conclude that the responsive correspondence is related to that case. However, absent special circumstances, where the opposing party to the anticipated litigation has had access to the

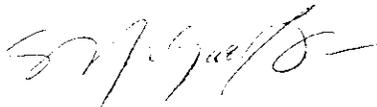
records at issue, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). If the opposing parties in the anticipated litigation have seen or had access to any of the information in these records, there is no justification for now withholding that information from the requestor pursuant to section 552.103(a). Much of the submitted information has been exchanged between the parties and is therefore not excepted from disclosure by section 552.103. 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).

You assert, "all of the material (enclosed) relates to the lawsuit, the negotiations or is Attorney/Client privileged under section 552.107 of the Government Code." You do not specify or identify any subpart of the submitted information that you contend is excepted under section 552.107. Nor do you provide any further argument in support of your contention that information is excepted by section 552.107 of the Government Code. Information shared with an opposing party is not protected under section 552.107 of the Government Code. *See* Texas Rule of Evidence 503; Open Records Decision No. 658 (1998). A general claim that an exception applies to an entire body of information, when the exception is clearly not applicable to all of the submitted information, does not comply with the Public Information Act's procedural requirements. Open Records Decision Nos. 419 (1984); 252 (1980); 150 (1977). We conclude that you have not demonstrated that section 552.107 excepts any of the responsive information from disclosure.

In summary, UT must release all responsive correspondence that it received from or sent to an opposing party, or otherwise made available to such a party, irrespective of any further forwarding of that correspondence by UT. UT may withhold all other responsive correspondence to which an opposing party has not had access.

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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 128763

Encl. Submitted documents

cc: Mr. Galen T. Svanas
7907 Richard King Trail
Austin, Texas 78749
(w/o enclosures)