



July 14, 2000

Ms. Cynthia B. Garcia  
Assistant City Attorney  
Office of the City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2000-2651

Dear Ms. Garcia:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 137252.

The City of Fort Worth (the "city") received a request for all the information the city has regarding a specifically described piece of property. You claim that the requested information is excepted from disclosure under sections 552.103, 552.107, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative samples of information, Exhibits 6 - 13.<sup>1</sup>

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) applies. To show that section 552.103 is applicable, the city must demonstrate 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

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<sup>1</sup>We 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 Nos. 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 those submitted to this office.

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. 588 (1991).

You have provided documentation that Cause No.141-181694-00 is pending in the 141<sup>st</sup> Judicial District. Therefore, we conclude you have demonstrated that litigation is pending for the purposes of section 552.103. After reviewing the submitted exhibits, we conclude that the information contained in the exhibits relates to the pending litigation. Consequently, the city may withhold most of the documents pursuant to section 552.103(a) of the Government Code.

However, we note that Exhibit 9 represents the agenda of a meeting of the city's Building Standards Commission. Agendas of public meetings are public records pursuant to the Open Meetings Act. Gov't Code § 551.041. Information that a statute other than chapter 552 of the Government Code expressly makes public is not subject to the exceptions to required public disclosure. Open Records Decision No. 623 at 3 (1994). Therefore, section 552.103 is not applicable to the official records of the public proceedings of a governmental body. Consequently, the city may not withhold Exhibit 9 under section 552.103(a).

Next, we note that Exhibit 13 contains the city's Code Compliance Division inspection reports. Section 552.022 (a)(1) provides *inter alia* that a completed report made of, for, or by a governmental body is public information that is not excepted from required disclosure unless they are expressly confidential under other law. We find that these completed reports were made for the city. You did not inform us, nor are we aware of any law that would make these reports confidential. Therefore, the city must release Exhibit 13 under section 552.022(a)(1).

Additionally, we note that once information has been obtained by all parties to the litigation through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Furthermore, 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).

In summary, the city must release Exhibits 9 and 13 to the requestor. The city may withhold the remaining exhibits pursuant to section 552.103 of the Government Code.

As we have been able to make a determination under section 552.103, we need not address the city's other claimed exceptions. This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

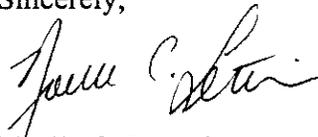
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Noelle C. Letteri  
Assistant Attorney General  
Open Records Division

ncl/nc

Ref: ID# 137252

Encl. Submitted documents

cc: Mr. Jeffrey J. Ansley  
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(w/o enclosures)