



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 30, 1994

Ms. Christine T. Rodriguez
Staff Attorney
Legal and Compliance, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR94-315

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 24923.

The Texas Department of Insurance (the "department") received a request for information held by the department. You state that some of the requested information has been made available to the requestor. You contend, however, that the remaining information is excepted from required public disclosure under sections 552.101 and 552.103 of the Government Code. You have submitted representative samples of the documents for our review.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You claim that the information submitted for our review is made confidential by article 1.10D, section 5(a) of the Insurance Code. Section 5(a) of article 1.10D provides that:

Any information or material acquired by the department that is relevant to an inquiry by the insurance fraud unit is not a public record for as long as the commissioner considers reasonably necessary to complete the investigation, protect the person under investigation from unwarranted injury, or serve the public interest. The information or material is not subject to a subpoena by another governmental entity, except a valid grand jury subpoena, until released for public inspection by the commissioner or, after notice

and a hearing, a district court determines that the public interest and any investigation by the commissioner would not be jeopardized by obeying the subpoena. . . .

You state that the department's fraud unit is conducting inquires relating to the requested information. You also state that the requested information is needed to complete the investigation by the fraud unit and to serve the public interest. We, therefore, conclude that the information is made confidential by section 5(a) of article 1.10D of the Insurance Code. You must withhold the information based on section 552.101 of the Government Code. *See* Open Records Decision No. 608 (1992). As we resolve this matter under section 552.101, we need not address the applicability of section 552.103.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/LBC/rho

Ref.: ID# 24923

Enclosures: Submitted documents

cc: Mr. Stuart H. Leaverton
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(w/o enclosures)