



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 28, 1995

Mr. Christopher Maczka
Assistant Attorney General
General Counsel Division
Administrative Law Section
P.O. Box 12548
Austin, Texas 78711-2548

OR95-528

Dear Mr. Maczka:

On behalf of the Texas State Board of Plumbing Examiners (the "board"), you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. We assigned your request an identification number, ID# 26852.

The board has received a request essentially for all records relevant to Christianson Plumbing Service and Custom Plumbing, Inc. (the "companies"). The requestor specifically seeks "[a]ll records relating to the status of the licenses of all master plumbers employed by or affiliated with" the companies; "[a]ll records relating to alleged violations of . . . the Plumbing License Law, and/or the regulations promulgated thereunder" by either of the companies or any master plumber whom either company employs or with whom either company affiliates itself; and "[a]ny and all records relating to any complaints" the board has received against either of the companies or against any master plumber whom either company employs or with whom either company affiliates itself. As a threshold matter, you state that the board generally does not have records indicating the firm for which each licensee works. We understand that associating a particular licensee's records with a specific firm would require the board to perform research, and the Open Records Act does not require a governmental body to perform research, *see* Open Records Decision No. 563 (1990) at 8.

With regard to the information concerning Custom Plumbing, Inc., you aver that the board will release any existing information that is responsive to the request. With regard to the information concerning Christianson Plumbing Service, you state that the board will provide to the requestor information regarding some of its employees, if such information exists. You indicate, however, that the board has filed a complaint against

Robert A. Christianson, *Texas State Board of Plumbing Examiners v. Christianson*, Docket Complaint No. 94-0086. With the exception of the complaint itself, which we assume you will release, and the information regarding various of its employees, which you will release, you contend that the board may withhold the requested information relating to Christianson Plumbing Service under section 552.103(a) of the Government Code.

Section 552.103(a) of the Government Code excepts from required public disclosure information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

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). We understand that the information relates to a pending quasi-judicial proceeding.

Absent special circumstances, however, once all parties to the litigation have obtained particular information, *e.g.*, through discovery or otherwise, 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 litigation have seen or accessed any of the requested information, the board cannot now justify withholding that information from the requestor pursuant to section 552.103(a).

We have examined the documents you submitted for our review. *See* Gov't Code § 552.303 (requiring governmental body that requests attorney general decision on open records request to supply to attorney general specific information requested). One of the documents is a letter to the board from an attorney for Mr. Christianson. Section 552.103 does not authorize the board to withhold this letter. Additionally, several of the documents are copies of citations and subpoenas, which are public judicial documents. Section 552.103 does not authorize the board to withhold these documents.

With these exceptions, we conclude that section 552.103 authorizes the board to withhold the requested information relating to Christianson Plumbing Service. For your convenience, we have marked the documents that the board must release. We also note that section 552.103(a) no longer applies once the litigation has been 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 may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office..

Yours very truly,



Kyemberly K. Oltrogge
Assistant Attorney General
Open Government Section

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Ref.: ID# 26852

Enclosures: Marked documents

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