



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 23, 1995

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

OR95-1110

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 22998.

The Texas Department of Insurance (the "department") has recently received an open records request for any complaint information relating to a particular insurance agent. The department contends that section 552.103 of the Government Code exempts the information from disclosure and has submitted a representative sample of the information for our review. The department further alleges that the "requested information relates to an ongoing investigation of [this] . . . individual for alleged violations of state insurance laws" and "[i]t is anticipated that this investigation will culminate in an administrative contested case."

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). A contested case before an administrative agency subject to the Administrative Procedure Act, chapter 2001 of the Government Code (formerly article 6252-13a, V.T.C.S.), is a quasi-judicial proceeding for the purposes of section 552.103(a). Open Records Decision No. 588 (1991). In this instance, you have made the requisite showing that the requested information in the investigation file relates to potential litigation for purposes of section 552.103(a); the requested records may therefore be withheld.¹

¹In reaching our conclusion here, 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

In reaching this conclusion, we assume that the anticipated or actual opposing party or parties to the litigation have not previously had access to the information at issue. Absent special circumstances, once information has been obtained by all parties to the litigation, *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 had access to any of the information in these records, the department may not now withhold that information from the requestor pursuant to section 552.103(a). Also, 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 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,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 22998

Enclosures: Submitted documents

cc: Mr. Harvey Bradley
P.O. Box 111911
Carlton, Texas 75011
(w/o enclosures)

(Footnote continued)

Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.