



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 17, 1995

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

OR95-1259

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# 36595.

The Texas Department of Insurance (the "department") received a request for information concerning Travelers Indemnity Company of Rhode Island's November 10, 1994 Petition for Review of Action by the Texas Workers' Compensation Insurance Facility. You seek to withhold from required public disclosure two documents pursuant to section 552.107(1) and 552.111 of the Government Code.

Section 552.111 of the Government Code excepts from required public disclosure:

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.*

We agree that section 552.111 applies to the May 3, 1995 memorandum you enclosed, with the exception of the factual information it contains. We have marked the portions of the memorandum to which section 552. 111 applies.¹ We also conclude that you may withhold the draft of the notice of hearing in its entirety. As a draft, the notice necessarily represents the opinion, advice and opinion of the drafter as to the form and content of the final document. See Open Records Decision No. 559 (1990).

We are resolving this matter with this 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,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 36595

Enclosures: Marked documents

cc: Mr. C. Patrick Kinder
Gardere & Wynne, L.L.P.
3000 Thanksgiving Tower
1601 Elm Street
Dallas, Texas 75201-4761
(w/o enclosures)

¹We need not address your section 552.107(1) claim, as the protection of section 552.107(1) is coextensive with that of section 552.111.