



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 29, 1997

Ms. Christine T. Rodriguez
Staff Attorney
Legal and Compliance, MC 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR97-1727

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# 107978.

The Texas Department of Insurance (the "department") received an open records request for six categories of information. You contend that the information coming within one of the requests is excepted from required public disclosure pursuant to sections 552.107(1) and 552.111 of the Government Code.¹

In the first item of the open records request, the requestor seeks the following information:

At the end of the May 22, 1997, hearing in Docket No. 2287, the Commissioner appeared to read from a written statement. Please provide a copy of the document from which the Commissioner was reading and any information regarding the date [the] document was prepared [sic]. *If the document contains other information that the commissioner did not read and that the Department contends is privileged in any way, you may excise that information from the document.* [Emphasis added.]

¹Because you do not argue that the remaining requested information is excepted from required public disclosure, we assume the department has made this information available to the requestor. See Gov't Code § 552.302.

You have submitted to this office as responsive to this request two documents, which you describe as having being read from by the commissioner at the end of the referenced May 22, 1997 hearing. Because the requestor limits his request to those portions of the documents that were read during the hearing, this office limits this ruling to those portions of the documents that the commissioner actually read to the public.²

A previous open records decision governs your request. In Open Records Decision No. 412 (1984) at 2, this office held as follows:

We do not believe the attorney-client privilege may be invoked to protect from disclosure information which has already been voluntarily disclosed at a public meeting. Since we do not have all relevant details before us, we cannot determine the extent to which you have waived your right to assert the privilege in this instance. We therefore simply advise generally that any information contained in the requested letter and supplementary memoranda which has already been disclosed to the public, either in public board meetings or in some other manner, may not be withheld under the attorney-client privilege. Similarly, this information may not be withheld under section 3(a)(11), since voluntary disclosure of information removes that information from the ambit of this section as well.

In accordance with Open Records Decision No. 412 (1984), we conclude that to the extent the requested documents were read aloud at a public meeting, the protection of both sections 552.107(1) and 552.111 was waived and those portions of the documents must now be released to the public.

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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

²This office cannot resolve factual matters in the opinion process. You have not explained the extent to which these documents were read to the public. We therefore will discuss the applicability of the exceptions you raise as a matter of law without application to specific portions of the documents before us.

YHL/RWP/rho

Ref.: ID# 107978

Enclosure: Submitted document

cc: Mr. D.J. Powers
1905 Kenwood
Austin, Texas 78704
(w/o enclosure)

