



May 25, 1999

Ms. Amy Hodgins
Deputy Chief Administrative Law Judge/General Counsel
State Office of Administrative Hearings
300 West 15th Street, Suite 502
Austin, Texas 78711-3025

OR99-1449

Dear Ms. Hodgins:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124601.

The State Office of Administrative Hearings ("SOAH") received a request for "[a]ll written decisions of any administrative law judge pertaining to matters arising out of disputes conducted pursuant to Texas Labor Code § 413.031(d) since January 1, 1990."¹ You interpret the request to be for all Texas Worker's Compensation Commission ("TWCC") written decisions. You have submitted to this office one Proposal for Decision which you state is representative of the requested records. You argue that SOAH is not the proper custodian of the requested records. In the alternative, you contend that the records are excepted from disclosure under sections 552.101 and 552.107(1) of the Government Code.

You explain that the legislature has transferred to SOAH the hearings functions for TWCC. Section 2003.021(c) of the Government Code provides that SOAH shall conduct hearings under title 5 of the Labor Code, the Texas Workers Compensation Act. Section 402.073 of the Labor Code directs TWCC to adopt by rule a memorandum of understanding with SOAH governing administrative procedure law hearings under the Workers Compensation Act. The memorandum of understanding includes extensive provisions regarding the confidentiality of information obtained by SOAH in connection with the hearings, including:

While SOAH will have temporary custody of the hearings records, the Executive Director of [TWCC] retains statutory authority as custodian of

¹You state that you "have informed the requestor that SOAH was not established until September of 1992, therefore, it would be impossible to provide decisions prior to that time."

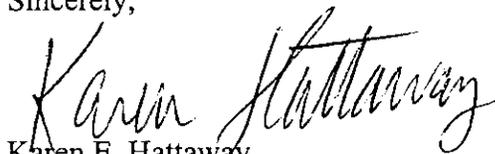
records and is ultimately responsible, as the originating agency, for the release or non-release of the information. Therefore, should any information, which may be confidential under [sections 401.001 et seq., Labor Code], [TWCC] rules, or other law be requested from SOAH by any person or entity, SOAH shall follow all legal requirements to ensure that the confidential information or document is not released, unless specifically required by law, and shall provide such request to the [TWCC's] executive communication division immediately upon receipt.

28 TAC § 149.6(c). The memorandum of understanding also addresses in detail, *inter alia*, the treatment of confidential information at hearings. *Id.* See also Labor Code §§ 402.083(a), 402.092 (information in or derived from claim file confidential; information in TWCC investigation files confidential).

In our opinion, for purposes of the Public Information Act, SOAH is acting as an agent for TWCC in conducting hearings pursuant to section 2003.021(c) of the Government Code and handling TWCC information in connection therewith, but is not TWCC's agent for the purpose of responding to written requests for such information. Responsibility for responding to requests for information held by SOAH in connection with such hearings therefore lies with TWCC. See Open Records Decision Nos. 617 (1993), 657 (1997). Persons making requests for such information should direct their requests to TWCC.

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.

Sincerely,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 124601

encl. Submitted documents

cc: Mr. William E. Weldon
Hoffman Kelley, L.L.P.
3910 South IH-35, Suite 205
Austin, Texas 78704
(w/o enclosures)