



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 8, 1992

Mr. Jeff Hankins  
Program Division, Legal Services, 110-1C  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR92-191

Dear Mr. Hankins:

The Texas Department of Insurance has enquired whether certain information is subject to required public disclosure under the Texas Open Records Act, Article 6252-17a, V.T.C.S. Your request was assigned ID# 15206.

You have received a request for copies of all complaints filed with the Department of Insurance concerning alleged misrepresentation by Western Fidelity Insurance Company in the sale of policy form WF-20-PL(TX). You claim that the requested information is excepted from required public disclosure by section 3(a)(3).

Previous open records decisions issued by this office resolve your request. section 3(a)(3) excepts

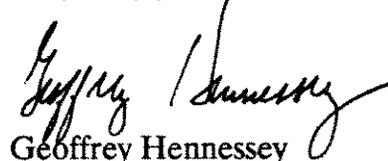
information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, . . . that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

Section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to that litigation. Open Records Decision No. 551 (1990). Whether litigation is reasonably anticipated must be determined on a case-by-case basis. Open Records Decision No. 452 (1986) at 4. For the purposes of section 3(a)(3), a contested case under the Administrative Procedure and Texas Register Act (APTRA), V.T.C.S. art. 6252-13a, is considered to be "litigation." Open Records Decision No. 588 (1991).

The materials at issue include the complainants' letters, correspondence relating to those complaints, and investigative records. The Department of Insurance represents that the requested information relates to an ongoing investigation of alleged misrepresentation and "it is anticipated" that this will result in contested administrative proceedings with the named company and its agents as parties. Having examined the documents submitted to us for review, we conclude that the requested information relates to the investigation and anticipated litigation, and therefore may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act. Please note that this ruling applies only until the resolution of the litigation and to the documents at issue here.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling, rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-191.

Very truly yours,



Geoffrey Hennessey  
Assistant Attorney General  
Opinions Committee

GH/sp

Re: Id #15206

cc: Mr. Kenneth M. Taylor  
Attorney at Law  
11325 Pegasus Street, Suite E-266  
Dallas, Texas 75238