



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 9, 1994

Mr. Douglas C. Brown
General Counsel
Office of the State Auditor
P.O. Box 12067
Austin, Texas 78711-2067

OR94-100

Dear Mr. Brown:

The Office of the State Auditor received a request for certain information pursuant to the Texas Open Records Act, Government Code chapter 552 (former article 6252-17a, V.T.C.S.).¹ Your letter referring this matter to us was assigned ID# 19693. The information requested is essentially the same information at issue in Open Records Letter No. 93-076 (1993),² with the exception of one additional document, which you have submitted to us.

You state in your letter that the requested information may relate to litigation to which the state is a party, and therefore should be excepted from required public disclosure by section 552.103(a) of the Government Code, which permits governmental bodies to withhold information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

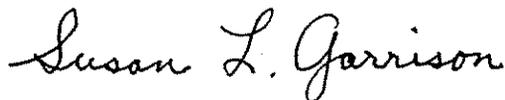
²Open Records Letter No. 93-076 (1993) addressed the availability of three documents to the public under the Open Records Act. It concluded that two of the documents were available to the public, but reserved judgment on one document, a six-page memo concerning a November 26, 1990 meeting of the State Auditor with Governor-elect Richards and her transition team. The six-page memo was subsequently released to the requestor, by a letter to Mr. Douglas C. Brown dated June 1, 1993.

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

You state that this information relates to *Merchant, et al. v. Texas Department of Commerce*. The assistant attorney general who is handling this case has reviewed the document you have submitted and has determined that it need not be withheld from public inspection. Accordingly, you must release this document to the requestor. See generally Open Records Decision Nos. 551 (1990); 180 (1977).

Because prior published open records decisions resolve this matter, we are communicating our decision by this information letter ruling rather than by published open records decision. If you have questions about this ruling, please refer to ID# 19693.

Yours very truly



Susan L. Garrison
Assistant Attorney General
Open Government Section

SLG/rho

Ref.: ID# 19693
ID# 19587

Enclosures: Submitted documents

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