



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 7, 1994

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

OR94-328

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# 25474.

The Texas Department of Insurance (the "department") received an open records request for complaints against two insurance agents, Hugh Maxwell Roth and Sledge Wayne Killion. You contend that information concerning complaints against Hugh Maxwell Roth may be withheld from the public pursuant to the Open Records Act, section 552.103 of the Government Code. As you raise no exception to the release of the complaints against Sledge Wayne Killion, we assume that you have, or will, release such information, if it exists.

To secure the protection of section 552.103, a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that information concerning complaints against Hugh Maxwell Roth relates to both pending and reasonably anticipated litigation for purposes of section 552.103. The requested records may therefore be withheld.

In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103 interest exists with respect to that information.

Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103. We also note that the applicability of section 552.103 ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Having concluded that the department may withhold the requested information about Hugh Maxwell Roth pursuant to section 552.103 of the Government Code, we need not address your claims under section 552.111 of the Government Code at this time. 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 contact our office.

Yours very truly,



Kay H. Guajardo  
Assistant Attorney General  
Open Government Section

KHG/rho

Ref.: ID# 25474

Enclosures: Submitted documents

cc: Mr. Patrick Weiland  
Eye to Eye with Connie Chung  
524 West 57 Street  
New York, New York 10019-2985  
(w/o enclosures)