



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 28, 1994

Ms. Alesia L. Sanchez
Legal Assistant
Legal and Compliance, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR94-825

Dear Ms. Sanchez:

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# 28125.

The Texas Department of Insurance (the "department") received a request for the "administrative enforcement file against Employers Casualty Company in which the [department] alleges that Employers is guilty of charging illegal rates for Workmens [sic] Comp [sic] insurance by illegally attempting to pass through 'residual market loads' in retrospective premiums." You say some of the requested information has been released. The department seeks to withhold portions of the requested information based on sections 552.107(1) and 552.111 of the Government Code. You have enclosed information that you say is a representative sample of the requested information.

Section 552.107(1) of the Government Code states that information is excepted from required public disclosure if:

it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas.

This exception applies only to information that reveals attorney advice and opinion or client confidences. See Open Records Decision No. 574 (1990). We have marked the portions of the enclosed information that the department may withhold from required public disclosure based on section 552.107(1) of the Government Code.

Section 552.111 of the Government Code excepts from required public disclosure:

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.* We have marked the portions of the enclosed information that the department may withhold from required public disclosure abased on section 552.111 of the Government Code.

In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499, 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID# 28125

Enclosures: Marked documents

cc: Ms. Teresa Migl Knavel
Legal Assistant
Graves, Dougherty, Hearon & Moody
515 Congress Avenue, Suite 2300
Austin, Texas 78701
(w/o enclosures)