



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 29, 1994

Ms. Lisa Brown
Bracewell & Patterson
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR94-849

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 29907.

The Deer Park Independent School District (the "school district"), which you represent, has received two requests for a copy of its liability insurance policy. You object to release of this information and claim that section 552.103(a) of the Government Code exempts it from required public disclosure. One of the requests was also for copies of certain school district board meeting agendas and a copy of a certain audio cassette recording of a public board meeting. As you do not comment on the release of this information, we assume that it has been or will be made available to the person who requested it. *See* Open Records Decision No. 363 (1983).

We conclude that the school district may withhold the insurance policy information from required public disclosure under section 552.103(a). To secure the protection of section 552.103(a), a governmental body must demonstrate that a judicial or quasi-judicial proceeding is pending or reasonably anticipated and that the requested information relates to that judicial or quasi-judicial proceeding. Open Records Decision No. 555 (1990) at 2. In this instance you have made the required showing that the insurance policy information relates to pending litigation for purposes of section 552.103(a). Specifically, one of the requestors has brought suit against the school district in *Lawrence Maxwell v. Deer Park I.S.D., et al*, C.A. No. H-93-3067, in the United States District Court, Southern District of Texas. The information at issue here clearly relates to this pending action.¹

¹In reaching this conclusion, however, we assume that the opposing party to the pending litigation has not previously had access to the records at issue; absent special circumstances, once information has

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 H. Guajardo
Assistant Attorney General
Open Government Section

KHG/GCK/rho

Ref.: ID# 29907

Enclosures: Submitted documents

cc: Mr. Lawrence S. Maxwell, Sr.
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(w/o enclosures)

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(Footnote continued)

been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the pending 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(a). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).