



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Ms. Christine T. Rodriguez
Staff Attorney
Legal and Compliance, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR95-895

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# 34882.

The Texas Department of Insurance (the "department") received a request for the identity of the person who filed a complaint against a certain company. You assert that the requested information is excepted from required public disclosure pursuant to sections 552.101 and 552.103 of the Government Code.

Section 552.101 excepts from required public disclosure information that is confidential by law. This office has determined that section 552.101 covers information that is within the informer's privilege. *See* Open Records Decision No. 515 (1988). The informer's privilege protects from disclosure the identity of a person who reports a violation or possible violation of the law to officials charged with the duty of enforcing the particular law. The privilege protects the identity of an informer who reports information to an administrative-agency official that has a duty to enforce statutes with civil or criminal penalties. *See id.*

We believe section 552.101 in conjunction with the informer's privilege applies here. Accordingly, you may withhold from required public disclosure all information that identifies the informer, including the name, address, phone numbers and letterhead. You have not established that the content of the letter tends to identify the informer. Therefore, we cannot conclude that the content may be withheld pursuant to section 552.101 and the informer's privilege.

However, you also raise section 552.103 of the Government Code, the "litigation exception." To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). In this instance you have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 552.103(a). The department may therefore withhold from required public disclosure the content of the document pursuant to section 552.103.¹

We are resolving this matter with this 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# 34882

Enclosures: Submitted documents

cc: Mr. Doug Burkert, C.P.A.
Executive Vice President - Finance
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(w/o enclosures)

¹We note that if the opposing parties in the anticipated 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). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, 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).