



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 20, 1995

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

OR95-1106

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# 36163.

The Texas Department of Insurance (the "department") received a request for information concerning Equipment Insurance Managers, Inc. ("Equipment Insurance") and Weir Insurance Group. You say the department will release some of the requested information. However, you seek to withhold from required public disclosure portions of the requested information based on sections 552.101, 552.103, 552.107, 552.108, and 552.111 of the Government Code.

Section 552.103(a) applies to 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

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

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). You inform us that portions of the requested information relate to an ongoing investigation of Equipment Insurance for alleged violations of state insurance laws and that the department anticipates that this investigation will culminate in an administrative contested case against Equipment Insurance. You state further that the attorney responsible for reviewing this matter has determined that the requested information is directly related to the anticipated litigation.

We believe that you have established that litigation is reasonably anticipated in this case. Additionally, we believe the information at issue relates to that litigation. Accordingly, the department may withhold the requested records from required public disclosure pursuant to section 552.103 of the Government Code.¹

Having concluded that the department may withhold the requested information from required public disclosure based on section 552.103, we need not address the applicability of the other exceptions you raise. 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 Records Division

KHG/rho

Ref.: ID# 36163

Enclosures: Submitted documents

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).

cc: Mr. Douglas McLeod
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(w/o enclosures)