



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 11, 1995

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

OR95-1393

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# 20350.

The Texas Department of Insurance (the "department") has received a request for information relating to Mr. James A. Hart, Hart Agencies, Delta General Agency Corporation, Michael Whitis, and Mike Whitis Insurance Agency. Specifically, the requestor seeks "access to all handwritten, typed, printed, recorded or graphic matter, photographic matter, sound reproduction, or computer input or output, computer electronic data storage, however produced or reproduced" concerning the entities named above. You advise us that the department will make available most of the requested information. You have submitted to us for review, however, the remaining information, which you claim sections 552.107 and 552.111 of the Government Code except from required public disclosure.

You seek to withhold two documents under 552.107; a document dated December 8, 1992, from Patrick Dwyer, Staff Attorney, to Kim Kiplin, Director of Legal Services, and a document dated May 11, 1993, from Judith Douglas, Staff Attorney, to Kim Kiplin.

Information may be withheld under section 552.107(1) only to the extent that it documents confidences of a governmental representative to its attorney or reveals the attorney's legal advice and opinions. Open Records Decision Nos. 589 (1991), 574 (1990). We have examined the documents and conclude that they may be withheld from required public disclosure in their entirety under section 552.107 of the Government Code.

You also claim that some of the requested information is excepted from required public disclosure by section 552.111 of the Government Code. Section 552.111 excepts “[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.” In Open Records Decision No. 615 (1993), this office concluded that section 552.111 excepts from required public disclosure only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency’s policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. *Id.* at 5. In addition, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* While the documents you have submitted for our review pertain to the policy functions of the department, some of the information contained in these documents is purely factual. We have marked those portions of the documents that may be withheld from required public disclosure under section 552.111 of the Government Code. The remainder of the requested information, except as noted above, must be released.

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 should 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,

A handwritten signature in black ink that reads "Todd Reese". The signature is written in a cursive style with a long horizontal line extending to the right.

Todd Reese
Assistant Attorney General
Open Records Division

RTR/LRD/rho

Ref.: ID# 20350

Enclosures: Marked documents

cc: Mr. James A. Hart
5917 Sterling Green Trail
Arlington, Texas 76017
(w/o enclosures)