



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 30, 1996

Ms. Tina Coronado
Staff Attorney
Texas Natural Resource Conservation
Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR96-0634

Dear Ms. Coronado:

Your predecessor asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. The request was assigned ID# 23441.

The Texas Natural Resource Conservation Commission (the "commission") received an open records request for certain records relating to employees who had been granted or denied extended sick leave by the commission's predecessor agency. In particular, the requestor seeks the following information:

The names of all employees of the former Texas Air Control Board who have been granted Extended Sick Leave, and the dates and total hour amounts of Extended Sick Leave of each of these employees, dating back to January 1, 1979.

[T]he names of all employees of the former Texas Air Control Board who have requested Extended Sick Leave and were denied this leave.

[H]ow much time elapsed between the date of each of these employee's requests for Extended Sick Leave and the date the employee was notified whether the leave was approved or disapproved.

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The commission contends that the requested information is excepted from disclosure by sections 552.101 and 552.103(a) of the Government Code.

The commission explains that the requestor has filed a lawsuit against the predecessor agency to the commission, and the requested information relates to that litigation. The commission has submitted the requested information for our review.

To secure the protection of section 552.103(a), a governmental body must demonstrate that a judicial or quasi-judicial proceeding in which the governmental body is involved is pending and that the requested information relates to that proceeding. Open Records Decision No. 555 (1990) at 2. In this instance, you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a). The requested records may therefore be withheld.

In reaching this conclusion, however, we assume that the opposing party to the litigation has not had access to the records at issue. Absent special circumstances, once information has been obtained by all parties to the litigation, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). We also note that the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).¹

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 23441

¹Because section 552.103 resolves your request, it is not necessary to address your arguments under section 552.101 and common-law privacy. We note, however, that you may not disclose confidential information after the litigation is concluded.

Enclosures: Submitted documents

cc: Ms. Judith Ann Loy
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(w/o enclosures)