



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 2, 1996

Mr. David Anderson
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR96-1818

Dear Mr. Anderson:

You have asked this office whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37372.

The Texas Education Agency received a request for a letter of complaint concerning a driving school. You assert that the letter is excepted from disclosure pursuant to the informer's privilege aspect of section 552.101, section 552.103 and 552.107 of the Government Code.

The informer's privilege as incorporated by section 552.101 protects the identity of an individual who reports criminal quasi-criminal violations of the law. Open Records Decision No. 515 (1988). This office has held that the informer's privilege may also be invoked by administrative agencies having a duty of inspection or law enforcement. Open Records Decision No. 279 (1981). We agree that you have shown the applicability of the informer's privilege to some of the information at issue. We have marked the information that may be withheld from disclosure under the informer's privilege.

You also assert that section 552.103 is applicable to protect the remaining information from disclosure. To show that section 552.103(a) is applicable, a governmental body must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex.App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You have not shown that litigation is reasonably anticipated.

You also assert that section 552.107 protects the entire complaint letter from disclosure. Section 552.107 protects information that reveals client confidences to an attorney or that reveals the attorney's legal advice, opinion, or recommendation to a client. *See* Open Records Decision No. 589 (1991) at 1. You have not shown that section 552.107 is applicable to the entire letter of complaint written by a third party to the Texas Education Agency.

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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID#37372

Enclosures: Submitted documents

cc: Dennis Douglas
Douglas Driving School
2440 Texas Parkway, Suite 220
Missouri City, Texas 77489
(w/o enclosures)