



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 29, 1996

Mr. Jason C. Marshall  
Attorney for the City of DeSoto  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR96-1973

Dear Mr. Marshall:

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# 101747.

The City of DeSoto (the "city"), which you represent, received an open records request for seven categories of information. You contend that the front cover page of all insurance policies issued to or in behalf of the city during a particular time period may be withheld from the public pursuant to section 552.103(a) of the Government Code.<sup>1</sup> To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 (1991) at 1.

You contend the information you seek to withhold is excepted from required public disclosure because the information "is specifically related to pending litigation in which the City of DeSoto is a party." You have not explained, however, the nature of the pending litigation, nor have you explained how the requested information "relates" to that litigation. We therefore conclude that you have not made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a). The city therefore may not withhold the information under this exception.

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<sup>1</sup>Because you do not contend that any of the other information sought by the requestor is excepted from required public disclosure, we assume the city has released this other information to the requestor. If it has not, the city must do so at this time.

You also contend that the requested information is made confidential by section 101.104 of the Civil Practice and Remedies Code. Section 101.104 provides:

(a) Neither the existence nor the amount of insurance held by a governmental unit *is admissible in the trial of a suit under this chapter.*

(b) Neither the existence nor the amount of the insurance is *subject to discovery.* (Emphasis added.)

Section 101.104 governs the discovery and admissibility of information pertaining to the city's insurance coverage during a civil lawsuit brought pursuant to the Tort Claims Act. *See* Tex. Civ. Prac. & Rem. Code §§ 101.001 *et. seq.* This section is not relevant as to whether information pertaining to the city's insurance coverage may be withheld from the general public pursuant to section 552.103. *See also* Open Records Decision No. 551 (1990) (Tex. Civ. Prac. & Rem. Code § 101.104 does not make insurance information confidential for purposes of Gov't Code § 552.101).

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,

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/RWP/rho

Ref.: ID# 101747

Enclosures: Submitted documents

cc: Mr. Durwood H. Davis  
514 N. Hampton  
DeSoto, Texas 75115  
(w/o enclosures)