



Office of the Attorney General  
State of Texas

July 15, 1997

DAN MORALES  
ATTORNEY GENERAL

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

OR97-1612

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107481.

The Texas Department of Insurance (the "department") received a request for the following information:

1. Any correspondence from January 1, 1996 to the present date to or from TDI or Mr. Mallett relating to any Texas Automobile Rules and Rating Manual rules or any administrative rules that Mr. Mallett proposed that TDI consider for adoption.
2. Any notes, memoranda, e-mail or other documents relating to Mr. Mallett's proposed rules.

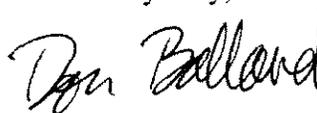
The requestor has subsequently amended her request. By letter dated May 29, 1997, the requestor explains that she does not seek the information that the department has identified as either an underwriting guideline or proprietary information. The department, therefore, by a letter dated June 4, 1997, withdrew its request for a decision concerning ten specific pages that may have implicated the proprietary rights of several companies. Consequently, this ruling does not address this information. Six documents, however, remain at issue. The department claims that the red marked portions of these six documents may be withheld under section 552.111 of the Government Code. We have considered the exception you claim and have reviewed the marked documents.

Section 552.111 excepts "an 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 reexamined the predecessor to the section 552.111

exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. Section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* at 4-5. While most of the marked information documents pertain to the policy functions of the department, some of the information you have marked is purely factual or is not an internal communication. We have marked the document that may not be withheld under section 552.111. The remaining marked portions of the documents may be withheld from required public disclosure.

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,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 107481

Enclosures: Submitted documents

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