



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 30, 1997

Ms. Christine T. Rodriguez  
Staff Attorney  
Legal and Compliance, MC 110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR97-1738

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# 108577.

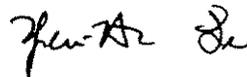
The Texas Department of Insurance (the "department") received an open records request for certain records pertaining to a former insurance agent. You state that you have released to the requestor some of the requested information. You seek to withhold, however, pursuant to section 552.103 of the Government Code a single document submitted to the department as a complaint against the agent.

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. In this instance you have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 552.103(a). The record at issue therefore may be withheld.

In reaching this conclusion, however, we assume that the opposing party to the anticipated litigation has not previously had access to the record at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). If the opposing party in the anticipated litigation has seen or had access to this record, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). We also note that the applicability of section 552.103(a) ends once the likelihood of litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/RWP/rho

Ref.: ID# 108577

Enclosure: Submitted document

cc: Mr. Gary Stahl  
Profiles Plus, Inc.  
29296 U.S. 19, Suite 205  
Clearwater, Florida 34621  
(w/o enclosures)