



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 9, 1998

Mr. Gary L. Henrichson
City Attorney
City of Edinburg
P.O. Box 1079
Edinburg, Texas 78540-1079

OR98-2403

Dear Mr. Henrichson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118580.

The City of Edinburg received a request for the "certificate of insurance of liability to work on private property." You contend that the responsive information is excepted from required public disclosure by section 552.101 of the Government Code in conjunction with section 101.104 of the Civil Practice and Remedies Code. We have considered the exception you claim and have reviewed the documents you have submitted. You have submitted several pages entitled Declarations of Coverage, and two documents entitled Liability Coverage Document and Property Coverage Document.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. As a general rule, statutory confidentiality under section 552.101 requires express language making particular information confidential; confidentiality will not be implied from the statutory structure. Open Record Decision No. 478 (1987), 465 (1987). Section 101.104 of the Civil Practice and Remedies Code provides as follows:

(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.

Section 101.104 prohibits the discovery and admission of insurance information during a trial under the Texas Tort Claims Act, chapter 101 of the Civil Practice and Remedies Code. *City of Bedford v. Schattman*, 776 S.W.2d 812, 813-14 (Tex. App.--Fort Worth 1989, orig. proceeding) (protection from producing evidence of insurance coverage under section 101.104 is limited to actions brought under the Tort Claims Act). It does not make insurance information confidential for purposes of the Open Records Act, chapter 552 of the Government Code. See Open Records Decision No. 551 at 3 (1990) (provisions of section 101.104 "are not relevant to the availability of the information to the public"). Chapter 552 of the Government Code differs in purpose from statutes and procedural rules providing for discovery in judicial proceedings. Gov't Code §§ 552.005 (chapter 552 does not effect scope of civil discovery), .006 (chapter 552 does not authorize withholding public information or limit availability of public information to public except as expressly provided by chapter 552); Attorney General Opinion JM-1048 (1989); see Open Records Decision No. 575 (1990) *overruled in part by* Open Records Decision No. 647 (1996) (section 552.101 does not encompass discovery privileges). We do not believe that insurance coverage information is made confidential by section 101.104. Consequently, the insurance information is not excepted from disclosure by section 552.101. As you raise no other exception to disclosure, the requested information must be released.

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/nc

Ref: ID# 118580

Enclosures: Submitted documents

cc: Mr. Cletus R. Kaemmerer, Jr.
Rio Valley Switching Co.
808 East 8th Street
Weslaco, Texas 78596
(w/o enclosures)