



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

June 4, 1990

Mr. A. W. Pogue  
Commissioner  
State Board of Insurance  
1110 San Jacinto  
Austin, Texas 78701-1998

OR90-208

Dear Mr. Pogue:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 6867.

The State Board of Insurance received a request for records about certain policies of title insurance pertaining to Couch Mortgage Company and certain associated companies. The records which are responsive to this request consist of letters from Texas title insurance companies that the board received pursuant to article 1.24 of the Insurance Code. Article 1.24 provides as follows:

The Board is authorized to address any inquiries to any insurance company . . . in relation to the company's . . . business condition, or any matter connected with its transactions which the Board may deem necessary for the public good or for a proper discharge of its duties. It shall be the duty of the addressee to promptly answer such inquiries in writing. A response made under this article that is otherwise privileged or confidential by law remains privileged or confidential unless and until introduced into evidence at an administrative hearing or in a court of competent jurisdiction.

In January of 1987, the Deputy Commissioner of Casualty Insurance sent a letter to all title insurance companies in Texas directing them to compile and furnish written responses to questions about Couch Mortgage and J.R. McConnell, Jr. The letter directed the companies to list all their files involving any of those entities that they had investigated and any irregularities shown as a result of

the investigation. In connection with each such file, the companies had to provide certain identifying information about the policy, the irregularities relating to any such policy, information about any claims under those policies, and the methods used to identify potential problems involving the two named companies. In addition, they had to identify and explain in detail any other claims arising in Texas in excess of \$100,000.

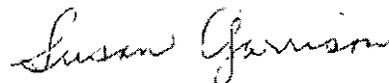
In connection with the letters sent by the title companies in response to the "1.24 letter," you raise sections 3(a)(1), 3(a)(3), and 3(a)(10). Your argument under section 3(a)(1) is based on attorney work product.

Section 3(a)(10) of the Open Records Act applies to "commercial or financial information obtained from a person," release of which would cause substantial harm to the competitive position of the person from whom the information was obtained. Open Records Decision No. 309 (1982).

We have examined the letters and found them to consist largely of financial information about the company that wrote the letter, including the amount of reserve the company has established or expects to establish for certain claims, detailed information about certain policies it has issued, including amount on claims under each policy, and information about its claims of over \$100,000. Accordingly, the letters are excepted from disclosure by section 3(a)(10) of the Texas Open Records Act. See Open Records Decision No. 309; 306 (1982). For this reason, you may withhold the requested information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-208.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

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Ref.: ID# 6867

Enclosure: Open Records Decision Nos. 306, 309  
Documents Sent