



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 16, 1993

Mr. Jeff Hankins
Legal Assistant
Legal Services, 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR93-192

Dear Mr. Hankins:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 19009.

The Texas Department of Insurance (the "department") received two requests for information pertaining to Kentucky Central Life Insurance Company (the "insurance company"). Both requestors seek all correspondence between the department and the insurance company for the past two years. One of the requestors also seeks a summary of an analysis completed by the Kane Corporation concerning the insurance company's real estate investments and all correspondence with the Kentucky Insurance Commission about the insurance company. You say you have released some of the requested information to the two requestors.¹

You initially asserted that you may withhold some of the requested information based on section 3(a)(3) of the Open Records Act. That provision permits a governmental body to withhold from required public disclosure information that relates to litigation that is pending or reasonably anticipated. You have withdrawn your claim under section 3(a)(3), since the insurance company did not request a hearing pursuant to article 1.10 of

¹Specifically, you say you have released copies of the plans of orderly withdrawal, the public portions of the financial examination, the annual financial statements for the past two years and the quarterly financial statements for the past two years. Because you submitted no information regarding the request for any correspondence with the Kentucky Insurance Commission, we assume you do not have this information or you have also released such correspondence to the requestor.

the Texas Insurance Code. Thus, you must release the information which you initially sought to withhold under section 3(a)(3).

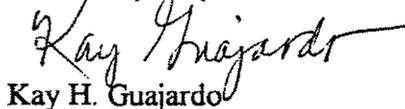
You also contend you may withhold portions of the requested information based on section 3(a)(12) of the Open Records Act, which states as follows:

information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act.

Section 3(a)(12) was intended to promote and protect the production of sensitive information by financial institutions to regulatory agencies. Open Records Decision No. 187 (1987). Insurance companies are included within the term "financial institutions" for purposes of section 3(a)(12) of the Open Records Act. See Open Records Decision No. 158 (1977) at 5-6. The documents contain information about the financial condition of the insurance company; therefore, we conclude that you may withhold the requested information based on section 3(a)(12). See Open Records Decision No. 187 (1978).

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 OR93-192.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/CAB/le

Enclosures: documents submitted

Ref: ID# 19009, ID# 19450, ID# 19516

cc: Kit Wagar
Staff Writer
Lexington Herald-Leader
100 Midland Avenue
Lexington, Kentucky 40508-1999
(w/o enclosures)

Mr. David Heath
The Courier-Journal
525 West Broadway
Louisville, Kentucky 40202
(w/o enclosures)