



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 31, 1995

Mr. Brian R. Herrick  
Assistant General Counsel  
Texas Department of Banking  
2601 North Lamar Boulevard  
Austin, Texas 78705-4294

OR95-1153

Dear Mr. Herrick:

By letter dated June 10, 1994, 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# 26971.

The Texas Department of Banking (the "department") received a request for information concerning State Bank of Texas, Dallas, Texas. You state that the department has provided the requestor with the public portions of the charter application of the bank; the articles of association of the bank and all amendments; the public portions of the branch application; the public portion of the application for conversion to a limited banking association; and all published statements and call reports and profit and loss statements. You contend that the remaining information is excepted from required public disclosure under sections 552.101 and 552.112 of the Government Code.

Section 552.101 of the Government Code excepts from required public disclosure information deemed confidential by statutory law. You contend that all of the documents submitted to this office are made confidential under V.T.C.S. article 342-210(a), article 342-331(f), or common-law privacy. The Seventy-fourth Legislature amended the Texas Banking Code. Texas Banking Act, 74th Leg., R.S., ch. 914, 1995 Tex. Sess. Law Serv. 4451 (Vernon). The confidentiality of information submitted to the department is now governed, by section 2.101 of the Texas Banking Act. *Id.* § 1, 1995 Tex. Sess. Law Serv. 4451, 4467 (Vernon). Section 2.101 provides in part that:

(a) *Information obtained directly or indirectly by the department relative to the financial condition or business affairs of a financial institution, or a present, former, or prospective shareholder, participant, officer, director, manager, affiliate, or service provider of a financial institution, other than the public portions of call*

reports and profit and loss statements, *whether obtained through application, examination, or otherwise*, except published statements, and all related files and records of the department are confidential and may not be disclosed by the banking commissioner or an employee of the department except as expressly provided otherwise by this Act or rules adopted under this Act.

*Id.* (emphasis added). A financial institution is defined as “a bank, savings association, or savings bank maintaining an office, branch, or agency office in this state.” *Id.* at 4455 (Vernon) (to be codified as section 1.002(a)(25) of the Texas Banking Act). Accordingly, information that is obtained by the department that concerns the financial condition or business affairs of a financial institution or a present, former, or prospective shareholder, participant, officer, director, manager, affiliate, or service provider of a financial institution, other than the public portions of call reports and profit and loss statements, is made confidential by section 2.101 except as provided otherwise by the act or by rules adopted under the act. You have, however, advised us that the department has already released the information that falls within the exceptions to confidentiality expressed in this section. You must therefore withhold the requested information under section 552.101 of the Government Code as information deemed confidential by law.

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/LBC/rho

Ref.: ID# 26971

Enclosures: Submitted documents

cc: Ms. Sylvia Martinez  
Reporter  
The Dallas Morning News  
1445 Ross Avenue, Suite 3200  
Dallas, Texas 75202-2711  
(w/o enclosures)