



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 16, 1997

Ms. Christine T. Rodriguez  
Staff Attorney  
Legal and Compliance Division, MC110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR97-1126

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 23397.

The Texas Department of Insurance (the "department") has received a request for information concerning Title U.S.A. Insurance Corporation. You contend that the requested information is not subject to the Open Records Act because the receiver is holding the records as an agent of the judiciary. In the alternative, you contend that sections 552.101, 552.103, and 552.111 of the Government Code except the information from required public disclosure.

We first address the department's claim that the records are records of the judiciary and, therefore, not subject to the provisions of chapter 552. *See* Gov't Code § 552.003(1)(B). In *El Paso Electric Co. v. Texas Department of Insurance*, 937 S.W.2d 432 (Tex. 1996), the Texas Supreme Court reversed a case previously relied upon by this office in reaching the conclusion that information held by a receiver of an insurance company is held on behalf of the supervising court. *See* Open Records Letter No. 96-0804 (1996). In *El Paso Electric*, the court concluded that, as the receiver is subject to removal by the State Board of Insurance (the "board"), the receiver's compensation remains within the board's control, and the receiver performs a public, regulatory function, the receiver is acting on behalf of the State Board of Insurance for purposes of chapter 105 of the Texas Civil Practice and Remedies Code, which allows a litigant to recover fees from a "state agency" in certain instances. *El Paso Electric Co. v. Texas Department of Insurance*, 937 S.W.2d at 436 (Tex. 1996). We assume, for purposes of this ruling, that all of the requested information was submitted to the

Commissioner of Insurance in his capacity as receiver of specified insurance companies. Consequently, we conclude that the receiver does not hold the particular requested information here on behalf of the receivership court but on behalf of the department. Therefore, the information is subject to the provisions of chapter 552. Open Records Letter No. 93-705 (1993) is overruled to the extent it conflicts with this conclusion.

You also contend that the requested records are excepted from disclosure under sections 552.101, 552.103, and 552.111 of the Government Code. As you did not submit the records for our review, we are unable to determine whether those exceptions apply in this instance.

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,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/rho

Ref.: ID# 23397

cc: Linda S. Restrepo, M.B.A.  
P.O. Box 12066  
El Paso, Texas 79912