



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 11, 1997

Ms. Christine T. Rodriguez
Staff Attorney
Legal and Compliance, MC 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR97-1361

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 106632.

The Texas Department of Insurance (the "department") received a request for all complaints and correspondence relating to several insurance companies and insurance agents.¹ You have provided the requestor with some of this information. However, you contend that the remaining information is excepted from disclosure under section 552.101 of the Government Code in conjunction with article 1.15B of the Insurance Code. We have considered the exception you claim and have reviewed the information at issue.

Chapter 552 of the Government Code imposes a duty on a governmental body seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See* Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome

¹Although the requestor is a member of the Texas House of Representatives, we note that section 552.008 of the Government Code does not apply here because the requestor has not stated that the requested information is being sought for legislative purposes. Gov't Code § 552.008 (governmental body shall provide public information, including confidential information, to member of legislature if member states that public information is requested for legislative purposes).

by showing that information is made confidential by another source of law or affects third party interests).

You did not request a decision from this office within ten days after the department received the request for information. Therefore, the submitted information is presumed to be public. However, you contend that the information is confidential by law. As the presumption of openness can be overcome by a showing that information is confidential by law, we will consider your section 552.101 arguments against disclosure.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Article 1.15B of the Insurance Code provides, in part:

Any information relating to the financial solvency of any organization regulated by the department under this code or another insurance law of this state obtained by the department's early warning system is confidential and is not subject to disclosure under the open records law, . . . , and its subsequent amendments.

We agree that article 1.15B applies to the submitted information. The department must, therefore, withhold the submitted information from disclosure pursuant to section 552.101 of the Government Code.

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 106632

Enclosures: Submitted documents

cc: Honorable Jim Pitts
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910
(w/o enclosures)

