



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 30, 1997

Ms. Ann Bright
Agency Counsel Section Chief
Legal and Compliance, MC-110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR97-2203

Dear Ms. Bright:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 109369.

The Texas Department of Insurance (the "department") received a request for "all actuarial information and actuarial documents" for specified "products" and dates, relating to LifeUSA Life Insurance Company and Allianz Life Insurance Company. Representative samples of the documents at issue were submitted to this office for review.¹ You have released some of the requested information to the requestor. However, you contend that the remaining information is excepted from disclosure under sections 552.111 and 552.112 of the Government Code. We have considered the exceptions and arguments you have raised and reviewed the submitted information.

Section 552.111 of the Government Code excepts from required public disclosure:

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. See Open Records Decision No. 615 (1993). This exception

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.* You have submitted an internal memorandum, dated September 29, 1993, that you contend is excepted from disclosure under section 552.111. We agree that the department may withhold from disclosure some of the information in this memorandum under section 552.111. We have marked those portions of the documents which the department may withhold from required public disclosure under section 552.111. The remaining information in this memorandum must be released.

Section 552.112(a) excepts from public disclosure information "contained in or related to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both." Insurance companies are included within the term "financial institutions" for purposes of section 552.112(a). Open Records Decision No. 158 (1977) at 5-6. Section 552.112 focuses on "specific information generated during the regulation or supervision of financial institutions." Open Records Decision No. 483 (1987) at 9. This exception does not cover all financial information, but rather generally extends only to information contained in or related to examination, operating, or condition reports prepared by or for the department. Section 552.112 also protects information that may reveal information in a protected report. *Id.*

You state that "[t]he financial data, and financial analyses were prepared by or for the use of [the department] which is responsible for the regulation and supervision of insurance companies." You further assert that "the financial data, and the financial analyses . . . is information with regard to the financial condition," of a financial institution, and therefore, protected from disclosure. We agree that the submitted letter and financial documents contain information about the financial condition of an insurance company. Thus, the department may withhold the responsive information in its entirety under section 552.112(a) 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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad", written in a cursive style.

Sam Haddad
Assistant Attorney General
Open Records Division

Ref.: ID# 109369

Enclosures: Marked documents

cc: Mr. Jim Dunnam
Dunnam & Dunnam, L.L.P.
4125 West Waco Drive
Waco, Texas 76710
(w/o enclosures)