



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 22, 1998

Mr. Sammie K. Glasco  
Assistant General Counsel  
Texas Department of Banking  
2601 N. Lamar Blvd.  
Austin, Texas 78705-4294

OR98-2270

Dear Mr. Glasco:

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# 118228.

The Texas Department of Banking (the "department") received a request for information concerning a "current list of all state chartered banks in Texas which are under a Cease and Desist Order or any type of consent order." You assert that portions of the requested information are exempted from disclosure based on section 552.101 of the Government Code.

Section 552.101 of the Government Code exempts from disclosure information that is made confidential by law, including information made confidential by statute. You raise section 31.301(a) of the Finance Code, which reads as follows:

(a) Except as expressly provided otherwise by this subtitle, Chapter 11 or 12, or a rule adopted under this subtitle, the following are confidential and may not be disclosed by the banking commissioner or an employee of the department:

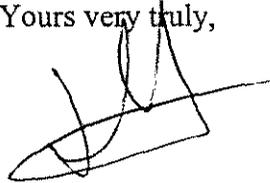
(1) information directly or indirectly obtained by the department in any manner, including an application or examination, concerning the financial condition or business affairs of a financial institution or a present, former, or prospective shareholder, participant, officer, director, manager, affiliate, or service provider of a financial institution, other than information in a published statement or in the public portion of a call report or profit and loss statement; and

(2) all related files and records of the department.

You assert that the information which is sought is information relating to the financial condition of financial institutions. Additionally, you assert that the information relates to cease and desist orders obtained under chapter 35 of the Texas Finance Code and that the commissioner has not made any determination that release of the orders or information regarding the orders in question would enhance enforcement under the code. However, you assert that the submitted information is information relating to the financial condition or business affairs of the banks. We agree. Accordingly, the department must withhold the information from public disclosure based on 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 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 'Janet I. Monteros', written over a horizontal line.

Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/nc

Ref.: ID# 118228

Enclosures: Submitted documents

cc: Mr. Sam Bayliss  
4303 Oak Trail Court  
Sugarland, Texas 77479  
(w/o enclosures)