



May 5, 1999

Ms. Mimi Hastings Shelton
Associate General Counsel
Texas Workers' Compensation Insurance Fund
221 West 6th Street, Suite 300
Austin, Texas 78701-3403

OR99-1230

Dear Ms. Shelton:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 123831.

The Texas Workers' Compensation Insurance Fund (the "Fund") received a request for the following information:

a current listing of all insureds accounts that are disputed and delinquent including name of insured, as well as complete address, and phone number. This list should also include the account number, amount of dispute or delinquency.

You contend that this information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 2(b) of article 5.76-3 of the Insurance Code. We have considered the exception you claim and have reviewed the information at issue.

Section 552.101 of the Government Code excepts from required public disclosure information that is deemed confidential by law, including information made confidential by statute. Section 2(b) of article 5.76-3 of the Insurance Code provides that the Fund is generally subject to the Public Information Act, but that the board of directors of the Fund may "refuse to release information relating to claims, rates, the fund's underwriting guidelines, and other information that would give advantage to competitors or bidders." You argue that publicly disclosing the requested information would give advantage to the Fund's competitors:

The Fund's customer list is considered to be excepted from required disclosure as information that would give advantage to competitors or bidders. *See* OR95-1453 (1995) and OR 94-709 (1994). A listing of current Fund policyholders whose accounts are considered disputed and delinquent would be a portion of the Fund's customer list and thus should also be exempt from disclosure. By obtaining a partial list of Fund policyholders, the requester can actually compete and bid for the Fund's customers in a manner that provides an unfair competitive advantage to the requester and its clients.

In this case, we agree that releasing the requested names, addresses, telephone numbers, and policy numbers could give advantage to the Fund's competitors. *See* Open Records Letter No. 95-1453 (1995) (releasing names, addresses, telephone numbers, and policy numbers of the Fund's customers could give advantage to the Fund's competitors); *cf.* Open Records Decision Nos. 552 (1990) (determining customer list to be trade secret of gas company), 437 (1986) (release of customer list would cause harm to competitive position of utility district bond underwriters), 255 (1980) (determining customer list to be trade secret). Therefore, this information is protected from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 2(b) of article 5.76-3 of the Insurance Code. However, you have not shown how releasing the de-identified amounts in dispute or delinquency would give advantage to the Fund's competitors. We do not believe that the de-identified amounts are protected by section 2(b). Therefore, the Fund must provide the requestor with the amounts in dispute or delinquency.

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.

Sincerely,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref.: ID# 123831

encl. Submitted documents

cc: Mr. J. Mitchell Brown
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(w/o enclosures)