



November 29, 1999

Mr. John T. De Marines
Director of Corporate Activities
2601 North Lamar, Suite 201
Austin, Texas 78705

OR99-3403

Dear Mr. De Marines:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 129346.

The Texas Savings and Loan Department (the "department") received a written request for the following information:

- 1.) The resolution regarding the receivership of Odessa Savings Association to the FSLIC and ultimately Amwest Savings.
- 2.) The Acquisition Agreement between

The FSLIC, as receiver for Odessa Savings, (AKA Olney Savings) and Amwest Savings Association as is pertaining to movants [sic] loan agreement.
- 3.) A copy of the assignment of the attached mortgage contract to the FSLIC from Odessa Savings Association, (AKA Olney Savings) and ultimately Amwest Savings Association.

You have submitted two documents to this office that you state are responsive to the request.¹ You contend that these records are excepted from required public disclosure

¹You state, however, that the department does not possess records responsive to the third requested item. Consequently, the department need not comply with that request. See Open Records Decision No. 445

pursuant to section 66.111 of the Finance Code and section 552.112 of the Government Code.

Chapter 66 of the Finance Code establishes the procedures by which the department must regulate savings and loans associations. Section 66.111 provides that, except for certain conditions not present here, "information contained in a temporary or final supervisory order or a notice, correspondence, or other record relating to the order is confidential." Section 66.105 establishes the types of temporary supervisory orders, which may later become final, that may be issued:

- (1) an order to cease and desist from continuing a particular action, an order to take affirmative action, or both;
- (2) an order suspending or prohibiting a person who participates in the affairs of the association from further participating in the affairs of the association or of another association;
- (3) an order requiring divestiture of control of an association obtained under Subchapter L, Chapter 62;
- (4) an order placing the affairs of the association under the control of a conservator designated in the order, who may take possession and control of the books, records, property, assets, liabilities and business of the association and manage the association under the direction of the commissioner.

After reviewing the documents at issue, it does not appear to this office that the documents consist of or relate to any of the types of temporary supervisory orders list above. We conclude, therefore, that section 66.111 of the Finance Code is inapplicable to the requested records.

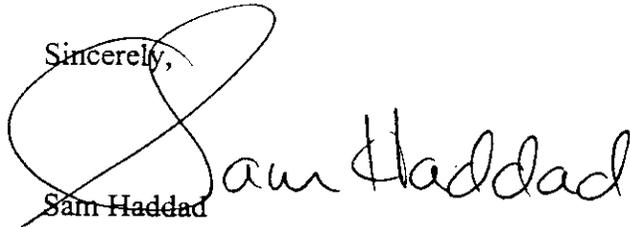
Section 552.112(a) of the Government Code excepts from required public disclosure "information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both." In this instance, however, you have not explained or otherwise demonstrated that the information at issue is "contained in or relat[es] to examination, operating, or condition reports prepared by or for" the department. Consequently, we

(1986) (governmental body not required to obtain information not in its possession or to prepare new information in response to request).

conclude that you have not met your burden of demonstrating the applicability of this exception. The department, therefore, must release the two documents at issue to the requestor.

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,

A handwritten signature in cursive script that reads "Sam Haddad". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

~~Sam Haddad~~
Assistant Attorney General
Open Records Division

SH/RWP/nc

Ref.: ID# 129346

Encl. Submitted documents

cc: Mr. Eddy G. Hooper
4000 North 10th Street
Bridgeport, Texas 76426
(w/o enclosures)