



March 20, 2000

Ms. Doreen Wheeler  
Assistant General Counsel  
Office of Consumer Credit Commissioner  
2601 North Lamar Boulevard  
Austin, Texas 78705

OR2000-1086

Dear Ms. Wheeler:

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# 133441.

The Office of the Consumer Credit Commissioner (the "OCCC") received a request for the release of the complete investigative file, including all "records, notes, memo's [sic] both written and oral statements, and its documents" concerning Big D's Pawn, Inc. This request is similar to one sent by the same requestor in July 1999. You claim that the responsive information is essentially the same for both the current and July 1999 requests. You state that several new documents have been added to the file since the July 1999 request and that you have released those documents to the requestor with the exception of an examination report dated September 1, 1999. You claim that the examination report is excepted from disclosure under section 552.101 of the Government Code. You also contend that Exhibit C, an internal memorandum, is excepted from disclosure under section 552.111 of the Government Code. In Open Records Letter No. 99-2642 (1999), this office determined that this memorandum is confidential by law and must not be released. We have considered the exceptions you claim and reviewed the submitted information.<sup>1</sup>

---

<sup>1</sup>In reaching our conclusion here, we 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 Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by other statutes. You contend that some of the requested information

is confidential pursuant to section 371.206 of the Finance Code because of the method by which the OCCC obtained the requested information. Section 371.206 provides that

[i]nformation obtained during an examination or inspection authorized by this subchapter [subchapter E of chapter 371 of the Finance Code] is confidential and privileged except for use by the commissioner or in a criminal investigation or prosecution.

Fin. Code § 371.206. Subchapter E of chapter 371 of the Finance Code authorizes examinations of pawnbrokers and inquiries into pawnbrokers’ transactions and records by the consumer credit commissioner at his discretion. Fin. Code § 371.201. We conclude that Exhibit B, an examination report of the pawn shop in question, and Exhibit C, an intra-office memorandum concerning the OCCC’s investigation of a consumer complaint, constitute information made confidential under section 371.206 of the Finance Code. The OCCC must withhold these two documents pursuant to section 552.101 of the Government Code. In addition, we find that the OCCC must withhold from the requestor the records deemed to be confidential in Open Records Letter No. 99-2642 (1999). Because section 552.101 is dispositive of this request, we do not address your other claimed exception.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

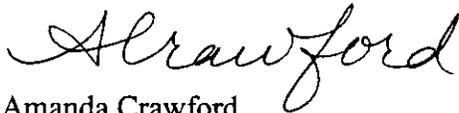
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records;

2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Amanda Crawford  
Assistant Attorney General  
Open Records Division

AEC/nc

Ref: ID# 133441

Encl. Submitted documents

cc: Mr. Michael Bader  
P.O. Box 1172  
Austin, Texas 78767  
(w/o enclosures)