



December 10, 2001

Mr. Steve Martin
Assistant General Counsel
Texas Department of Banking
2601 North Lamar Boulevard
Austin, Texas 78705-4294

OR2001-5752

Dear Mr. Martin:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 155928.

The Texas Department of Banking (the "department") received a request for the following information regarding ABC Money Transaction, Inc.:

Initial and Final Department of Banking Applications, Certificate(s) to conduct business, Certificate of Incorporation, license(s), proof (evidence) of bonding, complaints against said business and resolution thereof, department correspondence with said business, and all other non-confidential printed or printable material collected, assembled, or maintained or in the possession of the Department of Banking.

You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code 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. Section 153.305(a) of the Finance Code provides that:

Information relating to the financial condition of a license holder, other than published statements, obtained by the department from the license holder and any file or record of the department relating to a license holder are confidential and may not be disclosed by the commissioner or an officer or employee of the department.

Finance Code § 153.305. You state that the department maintains all the requested information within its files and records. Further, you do not indicate that the license holder has consented to the release of the requested information, or that the banking commissioner has determined that the requested information should be released. *See* Finance Code §§ 153.305(b) & (c). Based on your representations and our review of the submitted information, we conclude that the requested information is confidential under section 153.305(a) of the Finance Code. Therefore, the department must withhold the requested information under section 552.101 of the Government Code.

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); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

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,



Karen A. Eckerle
Assistant Attorney General
Open Records Division

KAE/sdk

Ref: ID# 155928

Enc: Submitted documents

c: Mr. Paul Jay Walchenbach
Attorney at Law
1900 Pacific Building
720 - 3rd Avenue
Seattle, Washington 98104
(w/o enclosures)