OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

December 30, 2002

Ms. Cynthia Villarreal-Reyna
Section Chief
Legal & Compliance Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2002-7415

Dear Ms. Villarreal-Reyna:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 176681.

The Texas Department of Insurance (the "department") received a request for information regarding Western Indemnity Insurance Company. You assert a portion of the requested information is excepted from disclosure under section 552.137 of the Government Code. We have reviewed the information you submitted and considered the exception you claim.

Section 552.137 provides in relevant part:

> (a) An e-mail address *of a member of the public* that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.
>
> (b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release. [Emphasis added.]

Section 552.137 requires the department to withhold e-mail addresses of members of the public that are provided for the purpose of communicating electronically with a governmental body, unless the members of the public have affirmatively consented to their

release. You state the member of the public at issue has given no affirmative consent to disclosure. Therefore, we agree with your assertion that section 552.137 of the Government Code requires the department to withhold the email address you have marked on the requested information.

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).

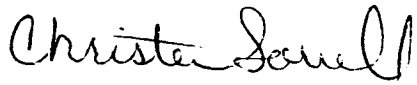
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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

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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/seg

Ref: ID# 176681

Enc: Submitted documents

c: Ms. Deborah Pattyson
Law Office of Dave Vatti
375 Bridgeport Avenue, 3rd Floor
Shelton, Connecticut 06484-3961
(w/o enclosures)