



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 9, 2008

Mr. F.C. Schneider
Public Information Officer
Texas Department of Savings & Mortgage Lending
2601 North Lamar, Suite 201
Austin, Texas 78705

OR2008-16748

Dear Mr. Schneider:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 333686.

The Texas Department of Savings and Mortgage Lending (the "department") received a request for the names and e-mail addresses of loan officers and mortgage brokers in Harris County, Fort Bend County, and Montgomery County. You claim a portion of the requested information is excepted from disclosure under section 552.137 of the Government Code. We have considered the exception you claim and reviewed the information you have submitted.

Initially, we note some of the submitted information does not consist of the requested names and e-mail addresses. Accordingly, only the names and e-mail addresses in the submitted information are responsive to the present request. Thus, the remaining information in the submitted documents is not responsive to this request. This ruling does not address the public availability of nonresponsive information, and the department is not required to release nonresponsive information in response to this request. Accordingly, we will address your argument with regard to the responsive information.

Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). See Gov't Code § 552.137(a)-(c). We note

section 552.137 is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. The e-mail addresses at issue are not of a type specifically excluded by section 552.137(c). You do not inform us you have received consent for release of the email addresses you have marked. Therefore, the department must withhold the e-mail addresses you have marked under section 552.137 of the Government Code. As you raise no arguments against disclosure of the remaining responsive information, it must be released.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas 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 Office of the Attorney General 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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/eeg

Ref: ID# 333686

Enc. Submitted documents

c: Requestor
(w/o enclosures)