



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 18, 2010

Ms. Betsy Loar
Assistant Commissioner and General Counsel
Texas Credit Union Department
914 East Anderson Lane
Austin, Texas 78752-1699

OR2010-03877

Dear Ms. Loar:

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# 373291.

The Texas Credit Union Department (the "department") received a request for information involving Firstmark Credit Union ("Firstmark"), three named officers of Firstmark, an investigation of Firstmark, and a specified time interval. You state that some of the requested information has been released. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.112 of the Government Code.¹ We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information that other statutes make confidential. The department claims section 552.101 in conjunction with section 126.002 of the Finance Code, which provides in part:

¹Although the department also initially claimed section 552.111 of the Government Code, you have submitted no arguments in support of the applicability of that exception. Accordingly, this decision does not address section 552.111. See Gov't Code §§ 552.301(e)(1)(A) (governmental body must submit written comments stating why claimed exception applies to information at issue), .302.

(a) Except as provided by Subsections (b) and (c), information obtained directly or indirectly by the department in any manner, including by application or examination, concerning the financial condition or business affairs of a credit union and the files and records of the department relating to that information, except a statement intended for publication, are confidential.

(b) Confidential information may not be disclosed to a member of the [credit union] commission, and a member of the commission may not be given access to the files or records of the department, except that the [credit union] commissioner may disclose to the commission information, files, and records pertinent to a hearing or matter pending before the commission or the commissioner.

(c) The commissioner may disclose the information described by Subsection (a) to a law enforcement agency or another department, agency, or instrumentality of this state, another state, or the United States if the commissioner determines that disclosure is necessary or proper to enforce the laws of this state applicable to credit unions.

Fin. Code § 126.002(a)-(c). We understand that Firstmark is a credit union regulated and monitored by the department. You state that the submitted information pertains to the financial condition and business affairs of Firstmark. You also state that these records include information obtained from a complainant and another agency, as well as documentation of the department's investigation of the complaint. We note that the release provisions in subsections 126.002(b) and (c) are not applicable in this instance. *See id.* § 126.002(b)-(c). Based on your representations and our review of the information at issue, we therefore conclude that the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 126.002(a) of the Finance Code.²

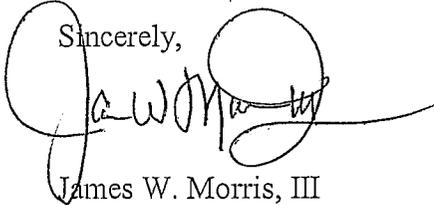
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

²As we are able to make this determination, we need not address the other exception you claim.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'James W. Morris, III', with a large, stylized initial 'J' and a long horizontal flourish extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 373291

Enc: Submitted documents

c: Requestor
(w/o enclosures)