



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 23, 2010

Mr. Steve Russell  
Lead Deputy General Counsel  
Texas Department of Agriculture  
P.O. Box 12847  
Austin, Texas 78711

OR2010-04092

Dear Mr. Russell:

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# 373924 (TDA-PIR-10-224).

The Department of Agriculture (the "department") received a request for documents pertaining to Circleville Store & Grain, Inc. (the "store"). You state the department has released a portion of the responsive information to the requestor. You claim the submitted 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, part of which is a representative sample.<sup>1</sup>

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information protected by other statutes. Section 14.012 of the Agricultural Code provides in relevant part as follows:

(a) The following information, prepared by the department in the course of its regulatory authority under this chapter or required to be submitted to the

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<sup>1</sup>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.

department in accordance with the department's administration of this chapter, is confidential and not subject to public disclosure:

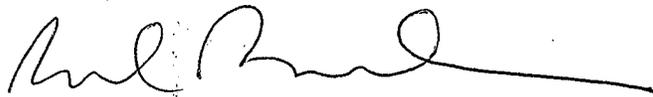
- (1) inspection or investigation reports containing information regarding grain inventory; and
- (2) financial information provided to the department to establish net worth for purposes of licensing.

Agric. Code § 14.012(a). The submitted information consists of grain warehouse inspection forms, financial statements, inspection correspondence, and preliminary inspection findings. You inform this office the department is currently investigating the store for possible violations of chapter 14 of the Agriculture Code, and indicate the submitted information was gathered by the department in the course of its regulatory and administrative duties under that chapter. You do not inform us, and it does not appear, the limitations of section 14.011 apply to the information. *See id.* § 14.011. Thus, based on your representations and our review, we agree the submitted information is subject to section 14.012. You also inform this office the store has neither had its license revoked, closed out its facilities, nor filed a petition for bankruptcy. We therefore conclude the release provisions of section 14.012(b)(3) are not applicable in this instance. *See id.* § 14.012(b). Accordingly, we find the submitted information is confidential under section 14.012 of the Agriculture Code and excepted from disclosure under section 552.101 of the Government Code.

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](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 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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/cc

Ref: ID# 373924

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)