



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 13, 2011

Ms. Susan Denmon Banowsky
Counsel for The Texas Winstorm Insurance Association
Vinson & Elkins
2801 Via Fortuna, Suite 100
Austin, Texas 78746-7568

OR2011-09961

Dear Ms. Banowsky:

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# 421886.

The Texas Windstorm Insurance Association (the "the association"), which you represent, received a request for a copy of a specified Deloitte report. You claim the submitted report 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." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 701.154 of the Insurance Code provides in relevant part:

- (a) Except as otherwise provided by law, an authorized governmental agency or an insurer that possesses or receives information or material under [chapter 701 of the Insurance Code] may not release that information or material to the public.
- (b) Information provided under [chapter 701] by an insurer to the insurance fraud unit [of the Texas Department of Insurance] or an authorized governmental agency is not subject to public disclosure. The information may be used by the insurance fraud unit or authorized governmental agency only in performing duties described by this chapter.

Ins. Code § 701.154(a)-(b). You state the association was established to provide wind and hail insurance for Texas Gulf Coast property owners in the event of catastrophic loss. Thus, we find the association is an insurer for purposes of chapter 701. *See id.* §§ 701.001(3) (defining “insurer” as person engaged in business of insurance as principal or agent), .001(4) (definition of “person” includes association). You also state the association provided the report to the Fraud Unit of the Texas Department of Insurance (the “fraud unit”) and the Travis County District Attorney’s Office pursuant to section 701.051. *See id.* §§ 701.051(a) (delineating duty to report fraudulent insurance act to fraud unit or authorized governmental agency), .001(1)(b) (definition of “authorized governmental agency” includes prosecuting attorney of county). Therefore, we conclude the association possesses the report under chapter 701. Thus, the report is confidential under section 701.154(a) of the Insurance Code and must be withheld 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, 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eb

Ref: ID# 421886

Enc. Submitted documents

c: Requestor
(w/o enclosures)