



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 17, 2011

Ms. Susan Denmon Banowsky
Vinson & Elkins, L.L.P.
2801 Via Fortuna, Suite 100
Austin, Texas 78746-7568

OR2011-16998

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# 436526.

The Texas Windstorm Insurance Association (the "association"), which you represent, received a request for information relating to investigations of a named individual. 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.

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 requested information to the Fraud Unit of the Texas Department of Insurance (the “fraud unit”) pursuant to section 701.051 of the Insurance Code. *See id.* § 701.051(a) (delineating duty to report fraudulent insurance act to fraud unit or authorized governmental agency). Therefore, we conclude the association possesses the requested information under chapter 701. Thus, the requested information is confidential under section 701.154(a) of the Insurance Code and the association must withhold it under section 552.101 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 436526

Enc. Submitted documents

c: Requestor
(w/o enclosures)