



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 31, 2012

Mr. Robert Giddings  
Assistant General Counsel  
Texas Department of Banking  
2601 North Lamar Boulevard  
Austin, Texas 78705

OR2012-01572

Dear Mr. Giddings:

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# 444005.

The Texas Department of Banking (the "department") received a request for order number 2010-023a. You claim the submitted order is excepted from disclosure under sections 552.101 and 552.112 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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. Section 552.101 encompasses information made confidential by other

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<sup>1</sup>You also raise sections 552.130, 552.137, and 552.147 of the Government Code. In addition, we understand you to raise section 552.136 of the Government Code. However, you have not presented arguments explaining how any of these exceptions apply to the submitted information, as required by section 552.301. Thus, this ruling does not address those exceptions. *See* Gov't Code §§ 552.301(e)(1)(A), .302 (governmental body must provide comments stating why exceptions raised should apply to information requested).

<sup>2</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

statutes, such as section 35.105 of the Finance Code. Section 35.105 governs the confidentiality of records pertaining to certain supervision and conservatorship orders issued to banks and provides:

An order issued under [subchapter B, chapter 35 of the Finance Code] and a copy of a notice, correspondence, transcript, pleading, or other document in the records of the department relating to the order are confidential and may be released only as provided by [s]ubchapter D, [c]hapter 31 [of the Finance Code], except that the banking commissioner may release to the public an order or information regarding the existence of an order if the banking commissioner concludes that the release would enhance effective enforcement of the order.

Fin. Code § 35.105 (footnote omitted). Subchapter B of chapter 35 of the Finance Code includes section 35.101, which provides in relevant part:

(a) The banking commissioner by order may appoint a supervisor over a state bank if the banking commissioner determines from examination or other credible evidence that the bank is in hazardous condition and that an order of supervision appears to be necessary and in the best interest of the bank and its depositors, creditors, and shareholders, or the public.

...

(c) A supervisor serves until the earlier of:

- (1) the expiration of the period stated in the order of supervision; or
- (2) the date the banking commissioner determines that the requirements for abatement of the order have been satisfied.

*Id.* § 35.101(a), (c). You represent, and the submitted order reflects, that the order was issued by the banking commissioner pursuant to section 35.101 of the Finance Code. Based on your representations and our review, we agree the submitted order was issued by the banking commissioner under subchapter B of chapter 35 of the Finance Code. As such, we conclude the department may withhold this information under section 552.101 of the Government Code in conjunction with section 35.105 of the Finance Code.<sup>3</sup>

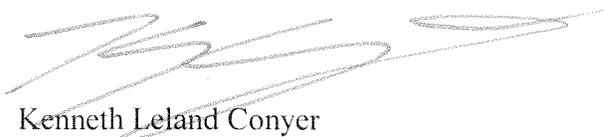
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<sup>3</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

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](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/agn

Ref: ID# 444005

Enc. Submitted documents

c: Requestor  
(w/o enclosures)