



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 8, 2012

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

OR2012-18006

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# 470979.

The Texas Department of Banking (the "department") received a request for information related to a named bank during a specified time period. You state you have released some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.107, 552.111, 552.112, and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</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. This section encompasses information protected by other statutes, including section 31.301 of the Finance Code. Section 31.301(a) provides the following:

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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.

Except as expressly provided otherwise by this subtitle, Chapter 11 or 12, or a rule adopted under this subtitle, the following are confidential and may not be disclosed by the banking commissioner or an employee of the department:

- (1) information directly or indirectly obtained by the department in any manner, including an application or examination, concerning the financial condition or business affairs of a financial institution or a present, former, or prospective shareholder, officer, director, affiliate, or service provider of a financial institution, other than information in a published statement or in the public portion of a call report or profit and loss statement; and
- (2) all related files and records of the department.

Fin. Code § 31.301(a). You state the information you have indicated consists of documents obtained or created by the department that concern the financial conditions and business affairs of the named bank. You demonstrate the named bank qualifies as a financial institution as defined by the Finance Code. *See id.* § 31.002(a)(25). You indicate that no provision in subtitle A of title 3 of the Finance Code, chapter 11 or 12 of the Finance Code, or rule adopted under subtitle A of the Finance Code would provide for the release of the information. *See id.* § 31.301. You state that the information you have indicated was not obtained from a published statement or the public portion of a call report or profit and loss statement. *See id.* § 31.301(a)(1). Based on these representations, we agree that the information you have indicated is confidential under section 31.301 of the Finance Code, and the department must withhold it under section 552.101 of the Government Code.<sup>2</sup>

You also ask this office to issue a previous determination that would permit the department to withhold bank examination reports and related work papers under section 552.101 of the Government Code in conjunction with section 31.105 of the Finance Code and federal law and section 552.112 of the Government Code without the necessity of requesting a decision under section 552.301 of the Government Code. We decline to issue such a previous determination at this time. Accordingly, 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,

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<sup>2</sup>As our ruling is dispositive for this information, we need not address the remaining arguments against its disclosure.

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,

A handwritten signature in black ink, appearing to read 'Vanessa', with a long horizontal flourish extending to the right.

Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 470979

Enc. Submitted documents

c: Requestor  
(w/o enclosures)