



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 13, 2012

Mr. Nick Lealos
Staff Attorney
Office of Agency Counsel
Texas Department of Insurance
P.O. Box 149104, Mail Code 110-1A
Austin, Texas 78714-9104

OR2012-18239

Dear Mr. Lealos:

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# 470821 (TDI # 131064).

The Texas Department of Insurance (the "department") received a request for information regarding a specified complaint. You claim the submitted information is excepted from disclosure under sections 552.101, 552.107, and 552.111 of the Government Code. We have considered the exceptions 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, such as section 36.252 of the Insurance Code, which provides:

- (a) Information or material acquired by the department that is relevant to an investigation is not a public record for the period that the department determines is relevant to further or complete an investigation.

- (b) Investigation files are not open records for purposes of [the Act], except as specified herein.

Ins. Code § 36.252. Section 36.251 of the Insurance Code states “investigation file”

means any information collected, assembled, or maintained by or on behalf of the department with respect to an investigation conducted under this code or other law. The term does not include information or material acquired by the department that is:

(1) relevant to an investigation by the insurance fraud unit;
and

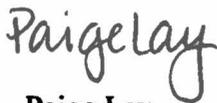
(2) subject to Section 701.151 [of the Insurance Code].

Id. § 36.251. You state the submitted information is part of a case file that pertains to a pending investigation by the department’s enforcement section. You do not indicate the submitted information is relevant to an investigation by the department’s insurance fraud unit. Accordingly, based on your representations and our review, we find the submitted information is confidential under section 36.252 of the Insurance Code and must be withheld under section 552.101 of the Government Code until such time the department determines the submitted information is no longer relevant to further or complete its investigation.¹

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,



Paige Lay
Assistant Attorney General
Open Records Division

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¹As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 470821

Enc. Submitted documents

cc: Requestor
(w/o enclosures)