



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 26, 2013

Mr. Stanton Strickland
Associate Commissioner
Legal Section
General Counsel Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2013-04889

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# 482613 (TDI No. 134816).

The Texas Department of Insurance (the "department") received a request for deviation information related to the Houston Texas Firefighters Federal Credit Union for a specified time period.¹ Although you take no position with respect to the public availability of the requested information, you state the proprietary interests of CMFG Life Insurance Company ("CMFG"), formerly CUNA Mutual Insurance Society, might be implicated. Accordingly, you notified CMFG of the request and of its right to submit arguments to this office explaining why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on

¹We note the department sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if a large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date the request is clarified or narrowed).

interested third party to raise and explain applicability of exception in certain circumstances). We have received arguments from CMFG. Thus, we have considered its arguments and reviewed the submitted information.

CMFG asserts some of its information is excepted from disclosure under section 552.110 of the Government Code. Section 552.110(b) protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.* § 552.110(b); Open Records Decision No. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence that release of information would cause it substantial competitive harm).

CMFG claims its rate deviation information constitutes commercial information that, if released, would cause the company substantial competitive harm. Upon review, we conclude CMFG has established release of this information would cause the company substantial competitive injury. Accordingly, the department must withhold the information we have marked under section 552.110(b) of the Government Code.² As no further exceptions to disclosure are raised, the department must release the remaining information.

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,



Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/som

²As our ruling is dispositive, we need not address CMFG’s remaining argument under section 552.110(a) of the Government Code for this information.

Ref: ID# 482613

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)