



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 12, 2013

Ms. Danielle R. Folsom  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77002-0368

OR2013-11895

Dear Ms. Folsom:

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# 493094 (GC No. 20423).

The City of Houston (the "city") received a request for copies of all property and casualty insurance policies that were purchased by the city for the protection of assets and operations.<sup>1</sup> Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests

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<sup>1</sup>We note the city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). You inform us, in response to the requestor's clarified request for information, the city sent the requestor an estimate of charges pursuant to section 552.2615 of the Government Code. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You state the city received the deposit on April 24, 2013. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date that governmental body receives deposit or bond).

of third parties.<sup>2</sup> Pursuant to section 552.305 of the Government Code, you notified the third parties of the request and of their opportunity to submit comments to this office explaining why the requested information should be withheld from disclosure. *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 interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from Underwriters stating it does not object to release of its information. We have reviewed the submitted information.

Initially, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Admiral, Arch, Axa, Axis, BUA, CNA, Essex, Great Lakes, Lexington, Liberty Mutual Fire, Liberty Mutual, Liberty Surplus, National Casualty, National Union, RSUI, TML, Torus, Westchester, or Westport explaining why the submitted information should not be released. Therefore, we have no basis to conclude any of these third parties have a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest Admiral, Arch, Axa, Axis, BUA, CNA, Essex, Great Lakes, Lexington, Liberty Mutual Fire, Liberty Mutual, Liberty Surplus, National Casualty, National Union, RSUI, TML, Torus, Westchester, or Westport may have in the information.

We note the submitted information includes information that is subject to section 552.136 of the Government Code.<sup>3</sup> Section 552.136 provides, "[n]otwithstanding any other

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<sup>2</sup>Admiral Insurance Company ("Admiral"); Arch Specialty Insurance Company ("Arch"); Axa Art Insurance Corporation ("Axa"); Axis Surplus Insurance Company ("Axis"); BUA, L.L.C. ("BUA"); CNA Commercial Insurance ("CNA"); Essex Insurance Company ("Essex"); Great Lakes Reinsurance (UK) P.L.C. ("Great Lakes"); Lexington Insurance Company ("Lexington"); Liberty Mutual Fire Insurance Company ("Liberty Mutual Fire"); Liberty Mutual Insurance ("Liberty Mutual"); Liberty Surplus Insurance Corporation ("Liberty Surplus"); National Casualty Company ("National Casualty"); National Union Fire Insurance Company of Pennsylvania ("National Union"); RSUI Indemnity ("RSUI"); Texas Municipal League IRP ("TML"); Torus Insurance ("Torus"); Underwriters at Lloyds London ("Underwriters"); Westchester Fire Insurance Company ("Westchester"); and Westport Insurance Company ("Westport").

<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. Accordingly, the city must withhold the insurance policy numbers and account numbers we have marked under section 552.136 of the Government Code. The remaining information must be released.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jeffrey W. Giles  
Assistant Attorney General  
Open Records Division

JWG/dls

Ref: ID# 493094

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Richard M. Moore  
Vice President Claims/Operation General Counsel  
Admiral Insurance Company  
1255 Caldwell Road  
Cherry Hill, New Jersey 08034  
(w/o enclosures)

Mr. Louis R. Canales, Jr.  
Texas Municipal League IRP  
P.O. Box 149194  
Austin, Texas 78714-9194  
(w/o enclosures)

Mr. R. Audet  
President  
BUA, L.L.C.  
22 Deer Street, Suite 400  
Portsmouth, New Hampshire 03801  
(w/o enclosures)

Mr. Dustin Dunn  
Torus Insurance  
1300 Post Oak Boulevard, Suite 1875  
Houston, Texas 77056  
(w/o enclosures)

Mr. Randy Orr  
Vice President of Legal  
National Casualty Company  
8877 North Gainey Center Drive  
Scottsdale, Arizona 85258  
(w/o enclosures)

Ms. Elissa Gydish  
Axa Art Insurance Corporation  
3 West 35th Street, 11th Floor  
New York, New York 10001  
(w/o enclosures)

Mr. Chris Matthews  
National Union Fire Insurance Company of Pennsylvania  
Two Rincon Center  
121 Spear Street  
San Francisco, California 94105  
(w/o enclosures)

Mr. Jerome Liebers  
Liberty Mutual Insurance  
17 Cloverleaf Drive  
Marlboro, New Jersey 07746  
(w/o enclosures)

Mr. Paul Donovan  
Head of Legal  
Canopus Managing Agents Limited  
Gallery 9, One Lime Street  
London EC3M 7HA United Kingdom  
(w/o enclosures)

Mr. J. P. Farmiloe  
Great Lakes Reinsurance (UK), P.L.C.  
Plantation Place, 30 Frenchchurch Street  
London EC3M 3AJ United Kingdom  
(w/o enclosures)

Mr. Jonathan McCombie  
Lexington Insurance Company  
100 Summer Street  
Boston, Massachusetts 02110  
(w/o enclosures)

Mr. Jonathan Buss  
Westchester Fire Insurance Company  
436 Walnut Street  
Philadelphia, Pennsylvania 19106  
(w/o enclosures)

Ms. Donna Dixon  
Axis Surplus Insurance Company  
11680 Great Oaks Way, Suite 500  
Alpharetta, Georgia 30022  
(w/o enclosures)

Mr. Derek Hall  
Arch Specialty Insurance Company  
300 Plaza Three, Third Floor  
Jersey City, New Jersey 07311  
(w/o enclosures)

Ms. Sandie Pugh  
Essex Insurance Company  
4521 Highwoods Parkway  
Glen Allen, Virginia 23060-6148  
(w/o enclosures)

Mr. Chester L. Simmons  
Liberty Surplus Insurance Corporation  
175 Berkeley Street  
Boston, Massachusetts 02116  
(w/o enclosures)

Mr. John D. Hall  
Liberty Mutual Fire Insurance Company  
175 Berkeley Street  
Boston, Massachusetts 02116  
(w/o enclosures)

Mr. Mark Jeffcoats  
Westport Insurance Company  
P.O. Box 2991  
Overland Park, Kansas 66201-1391  
(w/o enclosures)

Mr. Steve Forrest  
RSUI Indemnity  
945 East Paces Ferry Road, Suite 1800  
Atlanta, Georgia 30326  
(w/o enclosures)

Mr. Jonathan D. Kantor  
Executive Vice President  
General Counsel & Secretary  
CNA Commercial Insurance  
333 South Wabash Avenue  
Chicago, Illinois 60604-4153  
(w/o enclosures)