



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 19, 2014

Mr. Nick Lealos  
Staff Attorney  
Office of Agency Counsel  
Legal Section  
General Counsel Division  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2014-03052

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# 514608 (TDI #145543).

The Texas Department of Insurance (the "department") received a request for the insurance complaint filed against the requestor. You inform us that, in accordance with a previous determination issued to the department, you will withhold any information or material acquired by the department that relates to a fraud investigation under section 701.151 of the Texas Insurance Code. *See* Open Records Letter No. 2005-05223 (2005) (determining information acquired by the department that is relevant to an inquiry by the insurance fraud unit that the commissioner deems confidential is excepted from disclosure and need not be submitted to this office for review under section 552.301 of the Government Code); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). You claim that the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We

have considered the exception 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, 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 information at issue is part of a case file that pertains to a pending investigation by the department's enforcement section. You do not indicate the information at issue is relevant to an investigation by the department's insurance fraud unit. Accordingly, based on your representations and our review, we find this 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 information at issue is no longer relevant to further or complete its investigation.

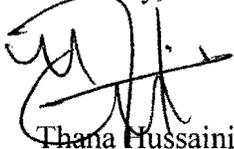
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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, 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.

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,

A handwritten signature in black ink, appearing to read 'Thana Hussaini', written over a horizontal line.

Thana Hussaini  
Assistant Attorney General  
Open Records Division

TH/som

Ref: ID# 514608

Enc. Submitted documents

c: Requestor  
(w/o enclosures)