ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 10, 2014

Mr. Stanton Strickland
Associate Commissioner
Texas Department of Insurance
P. O. Box 149104
Austin, Texas 78714-9104

OR2014-11891

Dear Mr. Strickland:

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# 528817 (TDI #150387).

The Texas Department of Insurance (the "department") received a request for the submission by Provident Life and Accident Insurance Company ("Provident") to justify a 90 percent increase on the requestor's insurance policy, confirmation of the approval of the increase, and the response and any other correspondence from the department regarding the request for approval and approval. You state the department will redact e-mail addresses under section 552.137 of the Government Code in accordance with Open Records Decision No. 684 (2009).[1] 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 of Provident. Accordingly, you state, and provide documentation showing, you notified Provident of the request for information and of its right to submit

[1]Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684.

arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

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 Provident explaining why the submitted information should not be released. Therefore, we have no basis to conclude Provident has 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the department may not withhold the submitted information on the basis of any proprietary interest Provident may have in the information. As no exceptions to disclosure have been raised, the submitted 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, 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,

David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/eb

Ref: ID# 528817

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Kevin P. McCarthy
Provident Life and Accident Insurance Company
1 Fountain Square
Chattanooga, Tennessee 37402-1330
(w/o enclosures)