



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 3, 2014

Mr. William Clay Harris  
Staff Attorney  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2014-21819

Dear Mr. Harris:

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# 547357 (TDI# 155083).

The Texas Department of Insurance (the "department") received a request for information pertaining to a named escrow agent. You state the department is withholding information under section 701.151 of the Texas Insurance Code in accordance with a previous determination issued to the department in Open Records Letter No. 2005-05223 (2005). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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

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<sup>1</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

Code § 552.101. This section encompasses section 36.252 of the Insurance Code, which reads as follows:

(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].

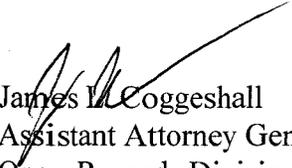
*Id.* § 36.251. You state the submitted information is part of two case files that pertain to pending investigations by the department’s enforcement division. You indicate the submitted information is not relevant to an investigation by the department’s insurance fraud unit. Accordingly, we find the submitted information is confidential under section 36.252 of the Insurance Code and the department must withhold it under section 552.101 of the Government Code on that ground until such time the department determines the submitted information is no longer relevant to further or complete its investigation.

Finally, you ask this office to issue a previous determination that would permit the department to withhold information subject to section 36.252 of the Insurance Code without requesting a ruling from this office. We decline to issue such a previous determination at this time. Accordingly, 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,



James W. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/cbz

Ref: ID# 547357

Enc. Submitted documents

c: Requestor  
(w/o enclosures)