



Office of the Attorney General
State of Texas
July 31, 1998

DAN MORALES
ATTORNEY GENERAL

Mr. Ryan Tredway
Staff Attorney
Legal and Compliance Division, MC 110-1A
Texas Department of Insurance
P. O. Box 149104
Austin, Texas 78714-9104

OR98-1806

Dear Mr. Tredway:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117529.

The Texas Department of Insurance (the "department") received a request for information relating to the effect that water or slab damage losses have had on the premium rates set by State Farm Insurance Companies ("State Farm"). State Farm informs us that it understands that the department will release aggregate statewide data to the requestor. You have, however, submitted some information to this office and raised section 552.305 of the Government Code. You have not taken a position as to whether the submitted information, which you characterize as a representative sample, is excepted from disclosure.¹

Since the proprietary interests of State Farm may be implicated by the release of the submitted information, this office notified State Farm about the request for information. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances). State Farm responded by claiming that information more detailed than aggregate statewide data is excepted from disclosure under sections 552.110 and 552.112 of the Government Code. However, State Farm does not object to the release of the aggregate statewide data.

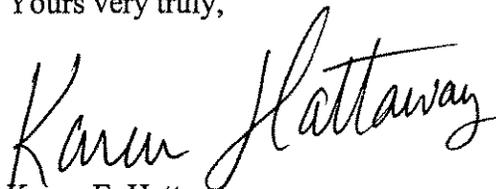
¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

State Farm alleges that detailed data would be excepted from disclosure under section 552.110, but State Farm offers no arguments to support this general allegation. Therefore, we have no basis to conclude that the submitted information is excepted from disclosure under section 552.110. *See* Open Records Decision Nos. 639 (1996) at 4 (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure), 552 (1990) at 5 (party must establish prima facie case that information is trade secret), 542 (1990) at 3.

Section 552.112(a) excepts from disclosure “information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.” We note that the department did not raise section 552.112 for the submitted information. Furthermore, we do not believe that the submitted information is the type of information that would be protected by section 552.112. Since sections 552.110 and 552.112 do not except the information from disclosure, we conclude that the department must release the information to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 117529

Enclosure: Submitted document

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