



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 2, 2005

Ms. Kerri Galvin  
Assistant Commissioner and General Counsel  
Credit Union Department  
914 East Anderson Lane  
Austin, Texas 78752-1699

OR2005-06944

Dear Ms. Galvin:

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# 229528.

The Credit Union Department of the State of Texas (the "department") received a request for any and all documents pertaining to the decision of Community Credit Union (the "credit union") to seek conversion to a mutual savings bank. You state that you have released final versions of responsive disclosure notices that were intended for public release. You claim, however, that the remaining requested information is excepted from disclosure under sections 552.101 and 552.110 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Govt' Code § 552.101. This section encompasses information made confidential by other statutes. You assert that the submitted

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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.

information is confidential pursuant to section 126.002 of the Finance Code, which provides in relevant part:

(a) Except as provided by Subsections (b) and (c), information obtained directly or indirectly by the department in any manner, including by application or examination, concerning the financial condition or business affairs of a credit union and the files and records of the department relating to that information, except a statement intended for publication, are confidential.

(b) Confidential information may not be disclosed to a member of the [credit union] commission, and a member of the commission may not be given access to the files or records of the department, except that the [credit union] commissioner may disclose to the commission information, files, and records pertinent to a hearing or matter pending before the commission or the commissioner.

(c) The commissioner may disclose the information described by Subsection (a) to a law enforcement agency or another department, agency, or instrumentality of this state, another state, or the United States if the commissioner determines that disclosure is necessary or proper to enforce the laws of this state applicable to credit unions.

Fin. Code § 126.002(a)-(c). You state that “[a]ll of the information was obtained, either directly, or indirectly as copies of information sent to other regulators, in connection with the [c]redit [u]nion’s decision to convert its charter from a state chartered credit union to a federally chartered mutual savings bank.” You further state that the submitted information “pertains either to the financial condition or business affairs of the [c]redit [u]nion.” We note that the release provisions in subsections 126.002(b) and (c) are not applicable in this instance. *See id.* § 126.002(b)-(c). Therefore, based on your representations and our review, we conclude that the submitted information is confidential pursuant to section 126.002(a) of the Finance Code and must be withheld under section 552.101 of the Government Code.<sup>2</sup>

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Caroline E. Cho  
Assistant Attorney General  
Open Records Division

CEC/sdk

Ref: ID# 229528

Enc. Submitted documents

c: Ms. Dominique Varner  
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(w/o enclosures)