



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 11, 2007

Ms. Cynthia Villarreal-Reyna  
Section Chief, Agency Counsel Section  
Legal Services Division MC-1101A  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2007-13281

Dear Ms. Villarreal-Reyna:

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# 291642.

The Texas Department of Insurance (the "department") received a request for information relating to Consumer County Mutual Insurance Company ("Consumer"). You state that some of the requested information has been released. You believe that the submitted information may implicate the proprietary interests of Consumer. You notified Consumer of this request for information and of its right to submit arguments to this office as to why the submitted information should not be released.<sup>1</sup> We received arguments from an attorney for Travelers, who explains that Consumer "fronts for" The Standard Fire Insurance Company, a Travelers affiliate. We have considered all of the submitted arguments and have reviewed the submitted information.

The department indicates that section 2251.107 of the Insurance Code is applicable to the submitted information. The department states that the information consists of coverage level territory definitions and factors that are part of a rate filing. Chapter 2251 of the Insurance Code is applicable to rates. Section 2251.107 provides that "[e]ach filing made, and any supporting information filed, under this chapter is open to public inspection as of the date

---

<sup>1</sup>See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

of the filing.” Ins. Code § 2251.107.<sup>2</sup> Although Consumer contends that the submitted information is excepted from disclosure under sections 552.110 and 552.112 of the Government Code, information that a statute specifically makes public may not be withheld from the public under any of the Act’s exceptions to public disclosure. *See, e.g.*, Open Records Decision Nos. 544 (1990), 378 (1983), 161 (1977), 146 (1976). Therefore, because a filing made under chapter 2251 of the Insurance Code is made public by section 2251.107, the department may not withhold any of the submitted information under section 552.110 or 552.112. Instead, the department must release the submitted information pursuant to section 2251.107 of the Insurance Code. As we are able to make this determination, we do not address Consumer’s arguments against disclosure.

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 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); *Texas Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

---

<sup>2</sup>We note that section 2251.107 took effect on April 1, 2007. *See* Act of May 24, 2005, 79<sup>th</sup> Leg., R.S., ch. 727, § 20, 2005 Tex. Sess. Law Serv. 2189.

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 Office of the Attorney General 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. 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,

A handwritten signature in black ink, appearing to read "J.W. Morris, III", with a large circular flourish at the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ma

Ref: ID# 291642

Enc: Submitted documents

c: Ms. Paula Keenan  
Priority Data Systems/AMS Services  
5035 South 110<sup>th</sup> Street  
Omaha, Nebraska 68137  
(w/o enclosures)

Mr. Gary A. Dobbie  
Consumers County Mutual Insurance Company  
4245 North Central Expressway Suite 500  
Dallas, Texas 75205  
(w/o enclosures)

Mr. Benjamin Hargy  
Travelers  
One Tower Square 8MS  
Hartford, Connecticut 06183  
(w/o enclosures)