



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 6, 2009

Ms. Caroline C. Jones  
Public Information Officer  
Texas Department of Savings and Mortgage Lending  
2601 North Lamar, Suite 201  
Austin, Texas 78705

OR2009-06070

Dear Ms. Jones:

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# 342401.

The Texas Department of Savings and Mortgage Lending (the "department") received a request for any completed investigations of a named individual during a specified time period. You state that you have provided the requestor with a full list of complaints against the named individual and copies of the department complaint forms. You claim that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>Although you cite section 156.301 of the Finance Code for your argument to withhold the submitted information, we understand you to raise section 552.101 of the Government Code in conjunction with section 156.301, as this is the proper exception for your argument.

<sup>2</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.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information made confidential under other statutes, such as section 156.301 of the Finance Code. Section 156.301 provides in relevant part:

(a) The [savings and loan] commissioner may conduct inspections of a person licensed under this chapter as the commissioner determines necessary to determine whether the person is complying with this chapter and applicable rules. The inspections may include inspection of the books, records, documents, operations, and facilities of the person and access to any documents required under rules adopted under this chapter. The commissioner may share evidence of criminal activity gathered during an inspection or investigation with any state or federal law enforcement agency.

(b) On the signed written complaint of a person, the commissioner shall investigate the actions and records of a person licensed under this chapter if the complaint, or the complaint and documentary or other evidence presented in connection with the complaint, provides reasonable cause. The commissioner, before commencing an investigation, shall notify a mortgage broker or loan officer in writing of the complaint and that the commissioner intends to investigate the matter.

(c) For reasonable cause, the commissioner at any time may investigate a person licensed under this chapter to determine whether the person is complying with this chapter and applicable rules.

...

(f) Information obtained by the commissioner during an inspection or an investigation is confidential unless disclosure of the information is permitted or required by other law.

*Id.* § 156.301(a)-(c), (f). You claim that the investigative file portions of the submitted information are confidential under section 156.301(f). You do not inform this office, and we are not otherwise aware, of any other law that permits or requires disclosure of that information. Accordingly, we conclude that the department must withhold the submitted investigative files under section 552.101 of the Government Code in conjunction with section 156.301(f) of the Finance Code as information made confidential by law.

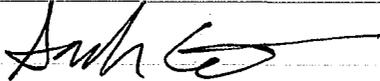
You also ask this office to issue a previous determination that would permit the department to withhold information under section 552.101 of the Government Code in conjunction with section 156.301 of the Finance Code without the necessity of again requesting an attorney general decision with respect to the public availability of such information. We decline to

issue such a decision at this time. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 673 (2001) (previous determinations).

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/jb

Ref: ID# 342401

Enc. Submitted documents

c: Requestor  
(w/o enclosures)