



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 14, 2009

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

OR2009-09672

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# 348920.

The Texas Savings and Mortgage Lending Department (the "department") received a request for information pertaining to specified complaints against a named licensee.¹ You claim that the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.137 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

¹We note the department sought and received clarification regarding this request for information. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request). We also note that, although the instant request for information also encompasses several other categories of information, you are only seeking a ruling on the request for information pertaining to specified complaints against a named licensee. Thus, this ruling only addresses that portion of the request for information.

²Although 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.

Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 156.301 of the Finance Code. Chapter 156 of the Finance Code is also known as the Mortgage Broker License Act. *See* Fin. Code § 156.001. Section 156.301 provides in 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 submitted information consists of investigative file information that is confidential under section 156.301(f). You do not inform this office, and we are not otherwise aware, of any law that would permit or require the department to release any of this information. Therefore, based on your arguments and our review of the submitted information, we conclude that the department must withhold the submitted

information under section 552.101 in conjunction with section 156.301(f) of the Finance Code.³

You ask this office to issue a previous determination permitting the department to withhold information obtained by the department during an inspection or investigation into a licensee under section 552.101 of the Government Code in conjunction with section 156.301(f) of the Finance 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 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 more information concerning those rights and responsibilities, please visit our website at 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,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/dls

Ref: ID# 348920

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we need not address your remaining arguments against the disclosure of the submitted information.