



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 16, 2009

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

OR2009-17824

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# 364480.

The Texas Department of Savings and Mortgage Lending (the "department") received a request for audits from American Savings and Loan Association (the "association"). You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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 contend that the submitted information is confidential under section 552.101 of the Government Code in conjunction with section 89.052 of the Finance Code. Section 89.052 provides in part:

¹ 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.

(a) The commissioner and an examiner, supervisor, conservator, liquidator, inspector, deputy, assistant, clerk, or other employee of the Department of Savings and Mortgage Lending who is appointed or acting under this subtitle shall be removed from the person's position with the department if the person:

(1) does not keep secret a fact or information about an association obtained during an examination or because of the person's official position, except when the public duty of the person requires otherwise; or

(2) wilfully makes a false official report about the condition of an association.

(b) A report of an examination made to the commissioner is confidential and is not a public record or available for public inspection, except:

(1) for good reason the commissioner may make the report public; and

(2) a copy of the report may be furnished to the Federal Home Loan Bank Board or to the Federal Home Loan Bank to meet the requirements of the Federal Home Loan Bank Act (12 U.S.C. Section 1421 et seq.).

Fin. Code § 89.052. You claim the submitted information consists of the report of examination and documents of the association obtained during examinations by the department, which are confidential under section 89.052 of the Finance Code. Based on your arguments and our review of the submitted information we find the department must withhold the submitted information under section 552.101 in conjunction with section 89.052 of the Finance Code.² *See* Attorney General Opinion No. JM-1110 (1989); *see also* Open Records Decision 483 (1987).

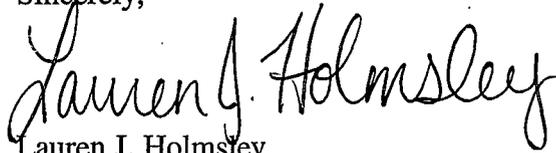
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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.

² As our ruling is dispositive, we need not discuss your remaining arguments against disclosure.

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, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Lauren J. Holmsley". The signature is written in black ink and is positioned above the typed name.

Lauren J. Holmsley
Assistant Attorney General
Open Records Division

LJH/sdk

Ref: ID# 364480

Enc. Submitted documents

c: Requestor
(w/o enclosures)