



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 18, 2010

Ms. Sara Shiplet Waitt  
Texas Department of Insurance  
Senior Associate Commissioner  
Legal and Regulatory Affairs, MC 110-1A  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2010-03875

Dear Ms. Waitt:

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# 373077 (TDI ORR # 99566).

The Texas Department of Insurance (the "department") received a request for a specified e-mail. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 36.252 of the Insurance Code, which provides:

(a) Information or material acquired by the department that is relevant to an investigation is not a public record for the period that the department determines is relevant to further or complete an investigation.

(b) Investigation files are not open records for purposes of [the Act], except as specified herein.

Ins. Code § 36.252. Section 36.251 of the Insurance Code states "investigation file"

means any information collected, assembled, or maintained by or on behalf of the department with respect to an investigation conducted under this code

or other law. The term does not include information or material acquired by the department that is:

- (1) relevant to an investigation by the insurance fraud unit;  
and
- (2) subject to Section 701.151 [of the Insurance Code].

Ins. Code § 36.251. You state, and provide a supplemental affidavit stating, the submitted e-mail is part of a case file that pertains to a pending investigation by the department's enforcement division, and indicate the information is not relevant to an investigation by the insurance fraud unit. Accordingly, based on your representations and our review, we find the submitted e-mail is confidential under section 36.252 of the Insurance Code and must be withheld under section 552.101 of the Government Code until such time the department determines the e-mail is no longer relevant to further or complete its investigation.

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, toll free, at (888) 672-6787.

Sincerely,



James McGuire  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 373077

Enc. Submitted documents

c: Requestor  
(w/o enclosures)