



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 18, 2011

Mr. Reg Hargrove
Assistant Attorney General
Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
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OR2011-02549

Dear Mr. Hargrove:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 409606 (PIR No. 10-29555).

The Office of the Attorney General (the "OAG") received a request for the OAG's letters sent to loan servicers or mortgage servicing companies regarding foreclosures and said companies' responses to the OAG's letters. The OAG released some of the responsive information and seeks to withhold the remaining information from disclosure under section 552.101 of the Government Code. We have considered the OAG's claimed exception to disclosure and have reviewed the submitted sample of information.¹

First, the OAG informs this office that it previously asked for a decision regarding some of the requested information in response to previous requests for information. In Open Records Letter No. 2011-00764A (2011), we concluded the OAG must release the companies' letters. As the four criteria for a "previous determination" established by this office in Open Records

¹We 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.

Decision No. 673 (2001) have been met, the OAG must continue to rely on Open Records Letter No. 2011-00764A.²

Next, we consider the OAG's section 552.101 assertion for the remaining information. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information another statute makes confidential. Section 17.61(f) of the Business and Commerce Code provides:

(f) No documentary material produced pursuant to a demand under this section, unless otherwise ordered by a court for good cause shown, shall be produced for inspection or copying by, nor shall its contents be disclosed to any person other than the authorized employee of the office of the attorney general without the consent of the person who produced the material. The office of the attorney general shall prescribe reasonable terms and conditions allowing the documentary material to be available for inspection and copying by the person who produced the material or any duly authorized representative of that person. . . .

Bus. & Com. Code § 17.61(f). This provision requires the OAG to withhold from required public disclosure all documentary material the OAG obtained pursuant to a Civil Investigative Demand ("CID"). The OAG explains its Consumer Protection and Public Health Division issued CIDs to various companies and the companies complied with the CIDs by submitting Exhibit B. Thus, we agree Exhibit B is information obtained pursuant to a CID, and therefore, is confidential under section 17.61(f). Accordingly, the OAG must withhold it.

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, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877)

²The four criteria for this type of "previous determination" are 1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D) of the Government Code; 2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; 3) the attorney general's prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and 4) the law, facts, and circumstances on which the prior attorney general ruling was based have not changed since the issuance of the ruling. See Open Records Decision No. 673 (2001).

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 409606

Enc: Submitted documents

c: Requestor
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