



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 29, 2014

Mr. Stanton Strickland
Associate Commissioner, Legal Section
Texas Department of Insurance
Mail Code 110-1C
P.O. Box 149104
Austin, Texas 78714-9104

OR2014-19564

Dear Mr. Strickland:

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# 542014 (TDI# 153893).

The Texas Department of Insurance (the "department") received a request for the Mutual of Omaha Insurance Company's ("Mutual of Omaha") cash value rider filing, including a specified form number and the related actuarial data. You state you have released some information to the requestor. You also state the department will redact personal e-mail addresses subject to section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ Although you take no position as to whether the submitted information is excepted from public disclosure under the Act, you state release of the submitted information may implicate the proprietary interests of Mutual of Omaha. Accordingly, you state, and provide documentation showing, you notified Mutual of Omaha of the request for information and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including e-mail addresses of members of the public under section 552.137, without the necessity of requesting an attorney general decision.

third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exceptions to disclosure under the Act in certain circumstances). We have reviewed the submitted information.

We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Mutual of Omaha explaining why its information should not be released. Therefore, we have no basis to conclude Mutual of Omaha has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the department may not withhold any of the submitted information on the basis of any proprietary interest Mutual of Omaha may have in the information. As no exceptions to disclosure have been raised, the submitted information must be released.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Alley Latham
Assistant Attorney General
Open Records Division

AKL/eb

Ref: ID# 542014

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Michael E. Huss, President
Mutual of Omaha
Mutual of Omaha Plaza
Omaha, Nebraska 68175
(w/o enclosures)