



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 23, 2015

Mr. Bob Davis
Staff Attorney
Office of Agency Counsel
Legal Section
General Counsel Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2015-22293

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# 584304 (TDI# 164280).

The Texas Department of Insurance (the "department") received a request for specified personal auto filings. The department states it will release some of the information upon the requestor's response to a cost-estimate letter. Although the department takes no position as to whether the submitted information is excepted under the Act, the department informs us release of this information may implicate the proprietary interests of Germania Select Insurance Company ("Germania"). Accordingly, the department states, and provides documentation showing, it notified Germania of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Germania. We have considered the submitted arguments and reviewed the submitted information.

Section 552.110(b) of the Government Code protects "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]" Gov't Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive

injury would likely result from release of the information at issue. *Id.*; *see also* Open Records Decision No. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence that release of information would cause it substantial competitive harm). Upon review, we find Germania has demonstrated release of the information at issue would cause the company substantial competitive harm. Accordingly, the department must withhold the submitted information under section 552.110(b) of the Government Code.¹

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/cbz

Ref: ID# 584304

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Becky Ogg
General Counsel
Germania Insurance
P.O. Box 645
Brenham, Texas 77934-0645
(w/o enclosures)

¹As our ruling is dispositive, we need not address Germania's remaining argument against disclosure.