



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 14, 2019

Ms. Cora Peck
Public Information Officer
Texas Department of Savings & Mortgage Lending
2601 North Lamar Boulevard, Suite 201
Austin, Texas 78705

OR2019-12868

Dear Ms. Peck:

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# 765480.

The Texas Department of Savings and Mortgage Lending (the "department") received a request for information pertaining to two named entities. You state you have released some information to the requestor. You claim some of 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. We have also received and considered comments from the requestors. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 156.301 of the Finance Code. Chapter 156 of the Finance Code is also known as the Mortgage Broker License Act. *See* Fin. Code § 156.001. Section 156.301 provides, in relevant part:

(a) The [savings and loan] commissioner may conduct inspections of a person licensed under this chapter or a residential mortgage loan originator who is

licensed under Chapter 157 and sponsored by and conducting business for a licensed or registered mortgage loan company under this chapter as the commissioner determines necessary to determine whether the person or the residential mortgage loan originator is complying with this chapter and applicable rules. The inspections may include inspection of the books, records, documents, operations, and facilities of the person or the residential mortgage loan originator and access to any documents required under rules adopted under this chapter. The commissioner may share evidence of criminal activity gathered during an inspection or investigation with any state or federal law enforcement agency.

(b) On the signed written complaint of a person, the commissioner shall investigate the actions and records of a person licensed under this chapter or a residential mortgage loan originator who is licensed under Chapter 157 and sponsored by and conducting business for a licensed or registered residential mortgage loan company under this chapter if the complaint, or the complaint and documentary or other evidence presented in connection with the complaint, provides reasonable cause. The commissioner, before commencing an investigation, shall notify the residential mortgage loan company or the residential mortgage loan originator in writing of the complaint and that the commissioner intends to investigate the matter.

(c) For reasonable cause, the commissioner at any time may investigate a person licensed under this chapter or a residential mortgage loan originator who is licensed under Chapter 157 and sponsored by and conducting business for a licensed or registered residential mortgage loan company under this chapter to determine whether the person or the residential mortgage loan originator is complying with this chapter and applicable rules.

...

(f) Information obtained by the commissioner during an inspection or an investigation is confidential unless disclosure of the information is permitted or required by other law.

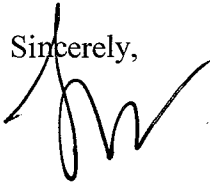
Id. § 156.301(a)-(c), (f). You state the submitted information pertains to an investigation conducted by the department pursuant to section 156.301 of the Finance Code. You assert the information at issue was obtained by the department in the course of the investigation. As noted above, you state the department will release the following information to the requestor: the order to cease and desist, the consent order, and the named entities' licensing applications. You assert the information at issue is confidential under section 156.301(f). Upon review, we agree most of the information at issue is confidential under section 156.301. However, we find the information we have marked for release does not constitute

information “obtained by the commissioner during an inspection or an investigation[.]” *Id.* § 156.301(f). Accordingly, this information may not be withheld under section 156.301(f) of the Finance Code. Thus, with the exception of the information we have marked for release, the department must withhold the information at issue under section 156.301(f) of the Finance Code in conjunction with section 552.101 of the Government Code. The department must release the remaining information.

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,



Jahna Ward
Assistant Attorney General
Open Records Division

JW/jxd

Ref: ID# 765480

Enc. Submitted documents

c: Requestor
(w/o enclosures)