



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

March 17, 2020

Mr. Marcus Adams  
Assistant General Counsel  
Texas Department of Banking  
2601 North Lamar Boulevard  
Austin, Texas 78705

OR2020-08320

Dear Mr. Adams:

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# 816853

The Texas Department of Banking (the "department") received a request for a copy of a specified "Form of Voting Agreement." You claim the submitted information is excepted from disclosure under sections 552.101 and 552.112 of the Government Code. You further provide documentation showing the department notified third parties of the request for information and of the right to submit arguments to this office as to why the submitted information 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 considered the exceptions 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, including section 31.301 of the Finance Code. Section 31.301(a) provides the following:

Except as expressly provided otherwise by this subtitle, Chapter 11 or 12, or a rule adopted under this subtitle, the following are confidential and may not be disclosed by the banking commissioner or an employee of the department:

(1) information directly or indirectly obtained by the department in any manner, including an application or examination, concerning the financial condition or business affairs of a financial institution or a present, former, or prospective shareholder, officer, director, affiliate, or service provider of a financial institution, other than information in a published statement or in the public portion of a call report or profit and loss statement; and

(2) all related files and records of the department.

Fin. Code § 31.301(a). You state the submitted information consists of documents obtained or created by the department that concern the financial condition or business affairs of the named bank and former or prospective shareholders, officers, directors, or affiliates of the bank. We understand the named bank qualifies as a financial institution as defined by the Finance Code. *See id.* § 31.002(a)(25). Additionally, you explain no provision in subtitle A of title 3 of the Finance Code, chapter 11 or 12 of the Finance Code, or rule adopted under subtitle A of the Finance Code would provide for the release of the information. *See id.* § 31.301. Finally, you state the submitted information was not obtained from a published statement or the public portion of a call report or profit and loss statement. *See id.* § 31.301(a)(1). Based on your representations and our review, we agree the submitted information is confidential under section 31.301 of the Finance Code, and the department must withhold it under section 552.101 of the Government Code.<sup>1</sup>

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Pearlie Gault  
Attorney  
Open Records Division

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w\o enclosures)