



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 1, 2022

Mr. Everette Jobe
General Counsel
Texas Department of Banking
2601 North Lamar Boulevard
Austin, Texas 78705

OR2022-19066

Dear Mr. Jobe:

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# 955935 (PIR #22-079).

The Texas Department of Banking (the "department") received a request for information pertaining to a named bank and a specified company during a defined period of time.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.112 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Initially, we note some of the submitted information is not responsive to the instant request because it is outside the requested time period. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release that information in response to the request.³

¹ We understand the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.2d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

² We assume 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.

³ As we are able to make this determination, we need not address the submitted arguments against disclosure of this 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. Section 552.101 encompasses information protected by other statutes, such as 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, a present, former, or prospective shareholder, officer, director, affiliate of a financial institution, or a third-party service provider of a financial institution or its affiliate, 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 responsive 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 responsive 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 upon your representations and our review, we agree the responsive 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.⁴

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

⁴ As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

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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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/jm

Ref: ID# 955935

Enc. Submitted documents

c: Requestor
(w/o enclosures)