



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 17, 2022

Ms. Cora Peck
Legal Secretary IV/Public Information Coordinator
Department of Savings and Mortgage Lending
2601 North Lamar Boulevard, Suite 201
Austin, Texas 78705

OR2022-35952

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# 985770 (PIR No. OR-23-005).

The Department of Savings and Mortgage Lending (the "department") received a request for records pertaining to a specified complaint. You state the department has released some information to the requestor. You claim 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.

Section 552.101 of the Government Code excepts from public 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, such as section 157.021 of the Finance Code, which provides, in relevant part:

(a) The [savings and mortgage lending] commissioner may conduct an inspection of a person licensed as a residential mortgage loan originator as the commissioner determines necessary to determine whether the person is complying with this chapter, Chapter 180 [of the Finance Code], and applicable rules. An inspection under this subsection may include inspection of the books, records, documents, operations, and facilities of the person. The commissioner may request the assistance and cooperation of the sponsoring mortgage banker in providing needed documents and records. The commissioner may not make a request of the sponsoring

mortgage banker for documents and records unrelated to the person being investigated or inspected. 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 as a residential mortgage loan originator if the complaint, or the complaint and documentary or other evidence presented in connection with the complaint, provides a reasonable cause. Before commencing an investigation, the commissioner must notify the licensed 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 as a residential mortgage loan originator to determine whether the person is complying with this chapter, Chapter 180, 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.

Fin. Code § 157.021(a)-(c), (f). You state the submitted information consists of inspection or investigative file information. Upon review, we agree some of the information at issue was obtained by the department during its investigation and is confidential under section 157.021. Thus, with the exception of the information we have marked for release, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 157.021(f) of the Finance Code. However, we conclude the information we have marked for release does not constitute information “obtained by the commissioner during an inspection or an investigation” and may not be withheld under section 552.101 in conjunction with section 157.021(f). *Id.* § 157.021(f). As you raise no further exceptions to disclosure, 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 <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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/pt

Ref: ID# 985770

Enc. Submitted documents

c: Requestor
(w/o enclosures)