



The Attorney General of Texas

July 31, 1978

JOHN L. HILL
Attorney General

Supreme Court Building
P.O. Box 12548
Austin, TX. 78711
12/475-2501

701 Commerce, Suite 200
Dallas, TX. 75202
14/742-9044

324 Alberta Ave., Suite 180
Pasadena, TX. 77002
915/533-3484

2000, Suite 610
Houston, TX. 77002
713/228-0701

806 Broadway, Suite 312
Lubbock, TX. 79401
06/747-5238

4313 N. Tenth, Suite F
McAllen, TX. 78501
12/682-4647

500 Main Plaza, Suite 400
San Antonio, TX. 78205
512/225-4191

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Mr. Eliseo Sandoval, Executive Director
Associated City-County Economic
Development Corporation of Hidalgo
County
1304 South 25th Street
Edinburg, Texas 78539

Open Records Decision No. 201

Re: Whether a city-county economic development corporation is a governmental body within the meaning of the Texas Open Records Act.

Dear Mr. Sandoval:

You have requested our decision as to whether records held by a community action agency are public under the Open Records Act, article 6252-17a, V.T.C.S.

In 1968, the agency, the Associated City-County Economic Development Corporation of Hidalgo County (hereafter "ACCEDC") was designated by the commissioners court as the official community action organization of the county. Approximately 47 percent of the agency's budget is funded by the federal government, while 17 percent is derived from state funds and the remainder from local funds. You first contend that ACCEDC is not a "governmental body" as defined in section 2(F) of the Open Records Act, and that, as a result, the Act is not applicable to any records in its custody.

The Open Records Act defines "governmental body" to include, inter alia,

the part, section, or portion of every organization, corporation, commission, committee, institution, or agency which is supported in whole or in part by public funds, or which expends public funds. Public funds as used herein shall mean funds of the State of Texas or any governmental subdivision thereof.

Section 2(F) (emphasis added). As we recently held in Open Records Decision No. 195 (1978), an officially designated community action agency supported in part by funds of the state or one of its governmental subdivisions is a

"governmental body" within the meaning of section 2(F) and is accordingly subject to the Open Records Act.

You also contend that, if ACCEDC is found to be a "governmental body," the information requested by Hidalgo Publishing Company is excepted from disclosure under sections 3(a)(1), 3(a)(2), 3(a)(3), and 3(a)(4) of the Act. The request letter seeks disclosure of price quotations on food service equipment purchased by ACCEDC, bidding instructions furnished by ACCEDC, federal forms submitted to ACCEDC by a child development center requesting financial assistance, a list of vendors, invoices, checks, purchase orders, contracts and leases relating to ACCEDC, and a variety of similar documents. A second quantity of information consists of travel and expense vouchers of ACCEDC officers and employees.

You have not advised us of any relevant statute or judicial decision which would require the withholding of any of these documents under section 3(a)(1). Neither do we believe that any of the requested information, including the travel and expense vouchers of ACCEDC employees, constitutes the kind of information in personnel files which is protected from disclosure by section 3(a)(2). As to section 3(a)(4), we have frequently indicated that this exception is not applicable when bidding on a particular contract has been completed and the contract is in effect or, as here, the contract never took effect. Open Records Decision Nos. 184 (1978), 75 (1974). Finally, although section 3(a)(3) excepts "information relating to litigation . . . to which the state or a political subdivision is, or may be, a party," we do not believe that this exception should be construed to apply here. Accordingly, it is our decision that the records of ACCEDC which are the subject of the request by Hidalgo Publishing Company are public and should be disclosed as there has been no showing that the requisite finding that the information should be withheld has been made by an attorney for the state or a political subdivision.

The other category of information, requested by Harbenito Broadcasting Company, relates to records of loans made by ACCEDC to specific individuals, and lease agreements and other documents pertaining to various commercial transactions between ACCEDC and certain other persons. You contend that this information is excepted from disclosure by sections 3(a)(1) and 3(a)(4) of the Act.

As to section 3(a)(4), you have not advised us as to how disclosure of any of the documents at issue here might "give advantage to competitors or bidders." Under section 3(a)(1), which excepts information "deemed confidential by law, either constitutional, statutory, or by judicial decision," you contend that such items as a loan application and a report of an individual's credit history are excepted from disclosure under the constitutional and/or common law right of privacy. In Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 688, 679 (Tex. 1976), the Supreme Court declared:

It is apparent . . . that the fundamental rights thus far recognized by the Court as deserving protection from governmental interference have been limited to intimate personal relationships or activities, freedoms of the individual to make fundamental choices involving himself, his family, and his relationships with others. It is also apparent that the right of privacy is primarily a restraint upon unwarranted governmental interference or intrusion into those areas deemed to be within the protected 'zones of privacy.'

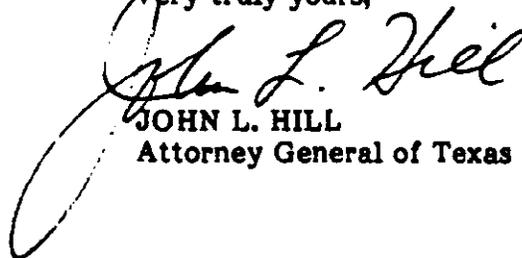
The court, noting that the "zones of privacy" concept elaborated by the United States Supreme Court in Roe v. Wade, 410 U.S. 113 (1973), is limited to "activities relating to marriage, procreation, contraception, family relationships, and child rearing and education," found that the kind of information at issue in Industrial Foundation, which consisted of workmen's compensation claim files, was not within one of the constitutionally protected zones of privacy. For the same reason, we do not believe that loan applications and credit reports may fairly be said to be excepted by a constitutional right of privacy.

The Supreme Court in Industrial Foundation also considered the applicability of the common law right of privacy, which, as section 3(a)(1) recognizes, is information "deemed confidential . . . by judicial decision." The court said that any information so characterized must

contain highly intimate or embarrassing facts about a person's private affairs, such that its publication would be highly objectionable to a person of ordinary sensibilities.

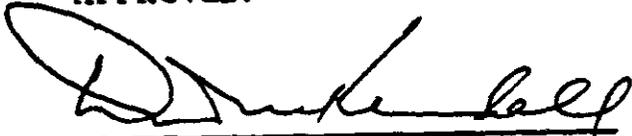
540 S.W.2d at 683. To clarify this requirement, the court cited such examples as claims for injuries arising from a sexual assault, claims on behalf of illegitimate children, claims for injuries to sexual organs, and claims for psychiatric treatment of mental disorders. Id. We believe it is clear that no portion of the information requested by Harbenito Broadcasting Company contains the kind of "highly intimate or embarrassing" information which "a person of ordinary sensibilities" would find to be "highly objectionable." Thus, the common law right of privacy does not prevent the disclosure of such documents. It is our decision that the records of ACCEDC requested by Harbenito Broadcasting Company are public and should be disclosed.

Very truly yours,



JOHN L. HILL
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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