



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

July, 1990

Mr. Thomas L. Finlay  
Assistant City Attorney  
City of San Antonio  
P.O. Box 9066  
San Antonio, Texas 78285

OR90-289

Dear Mr. Finlay:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# .

Project "WARM" is a city-operated program that helps people with low incomes and people in crisis or temporary hardship to pay their utility bills by soliciting donations from gas and electric utility payers. The City of San Antonio received an open records request for "a list of persons who received assistance through Project Warmth [sic] from its inception in 1982 to present" including, but not limited to, "the names, addresses and phone numbers where applicable of recipients and the amount they received from the city-administered fund." You contend that the common-law privacy aspect of section 3(a)(1) protects the requested information from required public disclosure. Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and it is of no legitimate concern to the public. Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W.2d 668, 683-85 (Tex. 1976), cert. denied, 430 U.S. 930 (1977).

You base your argument on Open Records Decision No. 373 (1983), in which this office held that certain personal financial information, including state assistance benefits, contained in individuals' applications for housing rehabilitation grants was protected by the common-law right to privacy. We note, however, that in Open Records Decision No. 385 (1983) (copy enclosed), this office made a distinction between the type of background financial information at issue in Open Records Decision No. 373, in which the general public normally has no legitimate interest, and the basic facts regarding financial transactions involving public

funds between individuals and the public body. Because the public does have a legitimate interest in records pertaining to the receipt and expenditure of public funds, see V.T.C.S. art. 6252-17a, § 6(3), the requested documents do not come under the protection of section 3(a)(1).

You contend that the funds granted to the needy are not "public funds" because they are not derived from a state or local tax. We note, however, that all monies collected by governmental bodies assume the character of public funds unless they are trust funds. Open Records Decision No. 268 (1981); see, e.g., Attorney General Opinions JM-118 (1983); MW-206 (1980). Records pertaining to gifts and donations to governmental bodies and the manner in which they are administered are subject to the Open Records Act. Attorney General Opinion JM-575 (1986). Your request is governed by the principles discussed in Open Records Decision No. 385; the requested information is not protected by section 3(a)(1) and must, therefore, be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-289.

Yours very truly,



Kay H. Guajardo  
Assistant Attorney General  
Opinion Committee

KHG/RWP/le

Ref.: ID# 9193

Enclosure: Open Records Decision No. 385

cc: Dan Kelly  
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