



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 22, 1992

Ms. Janie D. Fields, MPA
Executive Director
Children's Trust Fund of Texas
P. O. Box 160610
Austin, Texas 78716-0610

OR92-358

Dear Ms. Fields:

On behalf of the Children's Trust Fund of Texas (the "Fund") you ask whether certain information concerning contributors to the fund is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID # 15462.

The Fund has received a request for the names and addresses of all contributors to the Fund, the amount of their contributions, and other information relating to such contributors. The Fund claims that this information is excepted from public disclosure pursuant to sections 3(a)(1) and 3(a)(4) of the Act.

Section 3(a) of the Open Records Act declares that all information in the possession of a governmental body is public information available to the public, unless one of the enumerated exceptions of the Act applies. Section 3(a)(1) of the Act excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Texas Human Resources Code sections 74.001 through 74.006 authorize the Fund to solicit contributions to further the Fund's child abuse and neglect prevention programs. *See* TEX. HUM. RES. CODE §§ 74.007 & 74.008(a). However, there is nothing in these provisions which requires or authorizes the Fund to maintain the confidentiality of the names and addresses of the Fund's contributors.

You contend that the names of the Fund's contributors should be withheld under section 3(a)(1) pursuant to the common law right to privacy. In Open Records Decision No. 590 (1991) at 3, this office ruled that the identity of donors to a public university and the amounts of their donations were not excepted under 3(a)(1). This office reasoned as follows:

Under Texas common law, a disclosure of information constitutes an invasion of privacy if it meets two conditions: (1) the information contains highly intimate or embarrassing facts about a person's private affairs, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision No. 545 (1990). A pledge or donation of property to the university is a financial transaction between the donor or pledgor and a public body. As such, it does not involve facts about an individual's *private* affairs. It is, moreover, a matter of legitimate public concern, as the public has an interest in knowing who funds and therefore potentially influences public entities. This concern extends to the amount of the donation as well as the identity of the donor. . . . Thus, we do not find that common-law privacy bars the disclosure of the requested material. (Emphasis in original.)

The standard for determining violations of constitutional privacy interests requires that the information relate to "the most intimate aspects of human affairs." Open Records Decision No. 455 (citing *Ramie v. City of Hedwig Village, Texas*, 765 F.2d 490 (5th Cir. 1985)). As financial dealings between an individual and a public body cannot be considered an intimate aspect of life, we disagree with your argument that constitutional privacy excepts this information from disclosure.

On the basis of Open Records Decision No. 590, we rule that the requested names and amounts of donations are not excepted under section 3(a)(1). We also believe that the addresses of the donors are not more private than their names and amounts of donations and therefore the requested addresses are also not excepted under 3(a)(1).

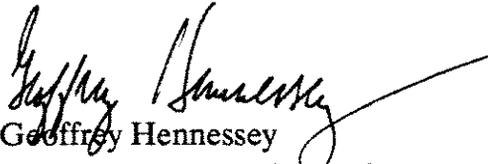
You note that contributions are often accompanied by personal letters from the contributors, and you assert that these personal letters are private and thus excepted under section 3(a)(1) of the Act. We have reviewed the representative personal letters submitted and have determined that they contain private material of

no legitimate interest to the general public. Accordingly, these personal letters and similar personal letters are excepted under section 3(a)(1) of the act.

Section 3(a)(4) excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." You contend that release of the names of the Fund's contributors will give advantage to other charitable or public interest entities that compete with the Fund for charitable contributions. This, however, is not the type of competition that section 3(a)(4) was intended to protect. Section 3(a)(4) is intended to protect the interests of a state agency during competitive bidding for a contract or benefit, where the state agency may wish to withhold information in order to obtain more favorable offers. Open Records Decision No. 592 (1991) at 8. The Fund is not soliciting bids for a contract or benefit; rather, the Fund is soliciting charitable contributions; and thus, the section 3(a)(4) exception does not apply.

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 OR92-358.

Very truly yours,


Geoffrey Hennessey
Assistant Attorney General
Opinions Committee

GH/lmm

Ref.: ID #15462
ID #15679

cc: Mr. Charles Hannasch
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