



Office of the Attorney General
State of Texas

August 6, 1992

DAN MORALES
ATTORNEY GENERAL

Mr. John R. Hale
Commissioner
State of Texas Credit Union Department
914 East Anderson Lane
Austin, Texas 78752-1699

OR92-361

Dear Mr. Hale:

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# 14873.

The Credit Union Department (the department) received an open records request for "all complaints against the Houston Postal Credit Union for the period January 1, 1989 to Oct. 31, 1991." You have submitted as responsive to the request a total of five complaints about the Houston Postal Credit Union received by the department, along with other information contained in each of the department's complaint files. Because the accompanying documents do not come within the ambit of the open records request, this letter ruling addresses only whether the department must release the complaint letters.

You contend the requested information is protected from required public disclosure by section 3(a)(1) of the Open Records Act and the "credit union's bylaws section 4.01(a) and section 91.403(b) of Rules for Credit Unions." Section 3(a)(1) of the act protects "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." You have not, however, cited any statutory authority for withholding the information at issue. Although the department is prohibited from releasing to the public information pertaining to the financial condition of credit unions, *see* V.T.C.S. article 2461-11.12(b), there is no similar restriction on the release of complaint file information. *See* V.T.C.S. article 2461-11.10(f).

The by-law to which you refer is contained in a document that the department has published entitled "Standard Bylaws for State-Chartered Credit Unions." These by-laws must be utilized by any newly incorporated credit union and may be adopted by any pre-existing credit union. *See* 7 T.A.C. § 91.205. We note, however, that section 4.01(a) of the by-laws pertains only to "officers, directors, advisory directors, committee members, and employees" of credit unions, not the commissioner of credit unions. Similarly, the section of the Texas Administrative Code that you cite, 7 T.A.C. § 91.403(b), provides only that "[n]o credit union officer, director, committee member, or employee may disclose...the individual savings, shares, or loan records of any credit union member" You have not explained, nor is it apparent to this office, that this restriction on disclosure applies to the department. More importantly, administrative rules generally cannot amend the Open Records Act by creating new exceptions. Open Records Decision No. 527 (1989). Absent specific authority, a governmental body may not promulgate a rule designating information as confidential so as to bring it within section 3(a)(1). *See, e.g.,* Open Records Decision No. 392 (1983).

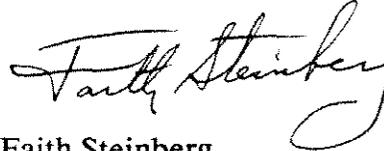
Most of the requested information does not come under the protection of section 3(a)(1), nor have you raised any of the act's other exceptions to required public disclosure.¹ We have marked portions of two of the complaints that consist of personal financial information that should be withheld pursuant to the common law right of privacy. *See generally* Open Records Decision No. 373 (1983). The department must, however, release the remaining information in the complaints.

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

¹Although you indicate that the individual requesting the information is currently involved in litigation against the Houston Postal Credit Union, you do not specifically raise section 3(a)(3), the "litigation exception." We note, however, that because this exception protects only information that relates to litigation to which the custodian of records is a party, section 3(a)(3) would be inapplicable in this instance. *See* Open Record Decision Nos. 392; 132 (1976).

a published open records decision. If you have questions about this ruling, please refer to OR92-361.

Yours very truly,



Faith Steinberg
Assistant Attorney General
Opinion Committee

FS/RWP/lmm

Ref.: ID# 14873

Enclosures: Submitted documents

cc: Mr. Lester Stubblefield
11610 Bourgeois Forest Dr.
Houston, Texas 77066
(w/o enclosures)