



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 19, 1993

Mr. William S. Nail
General Counsel
Employees Retirement System of Texas
18th and Brazos Streets
P.O. Box 13207
Austin, Texas 78711-3207

OR93-114

Dear Mr. Nail:

The Employees Retirement System of Texas (the "system") has received a request for "a set of adhesive-backed, pressure-sensitive mailing labels for all ERS retirees." The requestor requests that the labels include "the retiree's name, street number, street or post office box number, city, state, and zip code" and that they be "arranged numerically by zip code and subarranged alphabetically by retirees [*sic*] last name within each zip code." You ask whether the requested 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# 19193.

Section 3(a)(1) of the Open Records Act protects "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." The improper release of such information constitutes a misdemeanor. See V.T.C.S. art. 6252-17a, § 10(a), (f). Section 815.503 of the Government Code provides that "[r]ecords of members and beneficiaries under retirement plans administered by the retirement system . . . are considered to be personnel records and are required to be treated as confidential under Section 3(a)(1)" of the Open Records Act. We conclude therefore that the requested information is made confidential by section 3(a)(1) of the Open Records Act in conjunction with section 815.503 of the Government Code and must not be released.¹

¹*Compare Calvert v. Employees Retirement System*, 648 S.W.2d 418, 420 n.1 (Tex. App.--Austin 1983, writ ref'd n.r.e.) (holding predecessor statute to § 815.503 inapplicable given its 1981 effective date and ordering release of system's records of retired judges' names and addresses). See also *Houston Indep. School Dist. v. Houston Chronicle Publishing Co.*, 798 S.W.2d 580 (Tex. App.--Houston [1st Dist.] 1990, writ denied) (new exception to Open Records Act applies to records requested before effective date).

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 OR93-114.

Yours very truly,


Rebecca L. Payne
Assistant Attorney General
Opinion Committee

RLP/GCK/lmm

Ref.: ID# 19193

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