



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 17, 1994

Mr. Burton F. Raiford
Commissioner
Texas Department of Human Services
P. O. Box 149030
Austin, Texas 78714-9030

OR94-080

Dear Commissioner Raiford:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code, formerly V.T.C.S. article 6252-17a.¹ Your request was assigned ID# 23516.

The Texas Department of Human Services (the "department") received a request for the following information:

- [1.] The most recent State Data Exchange (SDX) tapes supplied by the Social Security Administration
- [2.] Any complaints, investigations or findings in the last five years regarding persons residing in or operators of board and care homes, personal care homes, boarding homes or homes in Dallas County in which three or more unrelated persons are living.

¹The Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the the Government Code at chapter 552. *Id.* § 1, at 599. This codification of the Open Records Act is a nonsubstantive revision. *Id.* § 47, at 988.

As for the first request item,² you say the Social Security Administration provides the information on the tapes for the department to use in determining and verifying eligibility of applicants and recipients in several assistance programs administered by the department. Section 552.101 of the Government Code exempts from required public disclosure information considered to be confidential by statutory law. Sections 12.003 and 21.012 of the Texas Human Resources Code, in accordance with title 42, section 602(a)(9) of the United States Code, forbid disclosure of any information about clients of assistance programs administered by the department. *See* Open Records Decision No. 584 (1991). We therefore conclude that you must withhold the SDX information as information excepted from required public disclosure under section 552.101 of the Government Code.

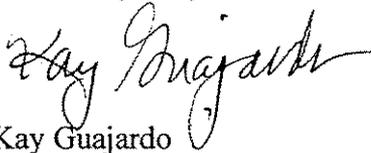
With respect to the information in the second request item, you say the department will release the information with deletions of the names of all personal care home residents, complainants, and witnesses. You argue that the common-law right to privacy protects the identity of all residents of a personal care facility. You also raise the informer's privilege in regard to the names of witnesses and complainants.

The requestor informs us that she does not seek the names of the facility residents, witnesses or complainants at this time. Thus, you may release the requested information with redactions of those names and of any information that tends to identify those individuals.

The records contain some information about an individual who is not a resident that is exempt from required public disclosure based on the common-law right to privacy. *See Industrial Found. of the S. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). We have marked the documents accordingly.

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 contact this office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

²You inform us that SDX data is now sent electronically over telephone lines. You enclosed an extract of data from an SDX record displayed on department computer screens. You say the department creates a tape to store the data.

KHG/rho

Ref.: ID# 23516

Enclosures: Submitted documents

cc: Ms. Christine Wicker
The Dallas Morning News
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(w/o enclosures)