



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 31, 1994

Ms. Gretchen Kuehn Bohnert
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR94-148

Dear Ms. Bohnert:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552. We assigned your request ID# 23460.

The City of Houston (the "city") has received a request for copies of certain employees' personnel records. Specifically, the requestor seeks records regarding William Rollin and Charles Fontenot, including:

- a. insurance benefits information
- b. employment history
- c. certification, licenses, educational levels, professional awards, memberships, dates of employment, character references
- d. disciplinary actions, dismissals, demotions.

You advise us that the city will make some of the requested information available to the requestor.¹ You have submitted some of the requested information to us for review and claim that section 552.101 of the act excepts it from required public disclosure.

¹You advise us that the city has withheld a peace officer's home address, telephone number, and social security number under section 552.117 of the act. We note that section 552.117 does not except a peace officer's social security number from required public disclosure. Social security numbers obtained pursuant to a law adopted on or after October 1, 1990, are confidential pursuant to section 552.101 of the Government Code in conjunction with title 42 of the United States Code, section 405(c)(2)(C)(vii). Open Records Decision No. 622 (1994). The records you have submitted show on their face that the employee's social security number was maintained prior to October 1, 1990.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 protects information only if its release would cause an invasion of privacy under the test articulated for section 552.101 of the act by the Texas Supreme Court in *Industrial Foundation of the South v. Texas Industrial Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Under the *Industrial Foundation* case, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and of no legitimate concern to the public. In Open Records Decision No. 373 (1983), this office addressed the availability under common-law privacy of personal financial information submitted to a city by an applicant for a housing rehabilitation grant. In that decision, this office concluded:

all financial information relating to an individual -- including sources of income, salary, mortgage payments, assets, medical and utility bills, social security and veterans benefits, retirement and state assistance benefits, and credit history -- ordinarily satisfies the first requirement of common law privacy, in that it constitutes highly intimate or embarrassing facts about the individual, such that its public disclosure would be highly objectionable to a person of ordinary sensibilities.

Open Records Decision No. 373 at 3. Whether the public has a legitimate interest in such information, however, must be determined on a case-by-case basis. *Id.*; *see also* Open Records Decision Nos. 600 (1992); 545 (1990). In Open Records Decision No. 545, this office applied a similar presumption to personal financial information of public employees and held that, absent "special circumstances," information concerning a public employee's voluntary participation in a deferred compensation plan is protected from disclosure by common-law privacy. Open Records Decision No. 545 at 4-5.

The information submitted to us for review includes information about a city employee's enrollment in a voluntary life insurance program and voluntary enrollment in a dental insurance plan. We conclude that this information is highly intimate or embarrassing. Moreover, the information you have provided does not indicate any special circumstances that would make the employee's personal financial information a matter of legitimate public concern. Accordingly, the submitted documents relating to voluntary life and dental insurance enrollment must be withheld from required public disclosure under section 552.101 of the act. You have also submitted the employee's enrollment for basic life insurance coverage that the city automatically provides. The fact that an employer has mandatory insurance coverage in a certain amount is open to the public, but the name or names of beneficiaries is confidential. Open Records Decision No. 600. However, the remaining records submitted to us for review, *i.e.*, the workers' compensation settlement information, contain no information that is intimate or embarrassing. *See* Open Records Decision No. 533 (1989) at 6. Moreover, this information is of legitimate interest to the public. Accordingly, this information must be released in its entirety.

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,



Susan L. Garrison
Assistant Attorney General
Open Government Section

SLG/GCK/rho

Enclosures: Submitted documents

Ref.: ID# 23460
ID# 24059
ID#0 24132

cc: Mr. Leon Lavorn Kendrick
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(w/o enclosures)