



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 24, 1994

Ms. Lisa M. Lemanczyk  
Staff Attorney  
Austin Housing Authority  
P.O. Box 6159  
Austin, Texas 78762

OR94-501

Dear Ms. Lemanczyk:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 28144.

The Austin Housing Authority (the "authority") has received a request for, among other things, the names of individuals on the authority's waiting list for section 8 housing. You state that the authority is willing to disclose all of the requested information except the names of people on the waiting list. You believe section 552.101 of the Government Code excepts the requested information from required public disclosure.

Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 thus incorporates other statutory provisions that make specified documents confidential. Additionally, it incorporates the doctrines of constitutional and common-law privacy. You contend that the requested information is private under the common law.

The Texas Supreme Court, in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977), articulated a two-pronged test that we use to determine whether information is confidential under the doctrine of common-law privacy and therefore exempt from required public disclosure under section 552.101. Under the test, information is confidential if (1) it contains highly intimate or embarrassing facts about an individual's private affairs such that the release of the information would be highly offensive to a reasonable person and (2) the public has no legitimate interest in it. *Industrial Found.*, 540 S.W.2d at 685.

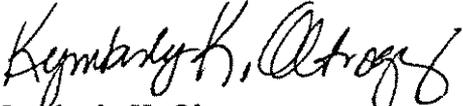
In Open Records Decision No. 373 (1983) this office considered whether the statutory predecessor to section 552.101 of the Government Code required the City of Austin to withhold from public disclosure applications to a city-administered program to receive a federally funded loan or grant to rehabilitate applicants' homes. The decision explained that the application files contained information about an applicant's sources of income, employment, salary, mortgage payments, assets, medical and utility bills, social security and veterans' administration benefits, verification of employment and mortgage payments, credit history, age, ethnic origin, and family composition. Open Records Decision No. 373 at 1.

The decision concluded that the statutory predecessor to section 552.101, incorporating the common-law doctrine of privacy, generally excepted from required public disclosure financial information relating to an individual applicant for a housing rehabilitation grant. *Id.* at 4. However, the remainder of the requested information, including the applicant's age, ethnic origin, and family composition, was not private under the common law. *Id.*

The information requested here does not include financial information related to the individual applicants for section 8 housing. While some persons may consider that the fact that one's name appears on waiting list for section 8 housing is intimate and embarrassing, we believe the information is of legitimate public interest. These individuals are, after all, applying to receive a government benefit. We therefore conclude that the authority must release to the requestor the names of the applicants on the waiting list for section 8 housing.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an 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,

  
Kimberly K. Oltrogge  
Assistant Attorney General  
Open Government Section

KKO/LRD/rho

Ref.: ID# 28144

Enclosures: Submitted documents

cc: Ms. Bettie Cross  
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