



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 14, 1994

Mr. Ramon Vela
Attorney at Law
134 West Fifth Street
Weslaco, Texas 78596

OR94-725

Dear Mr. Vela:

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# 29550.

The City of Weslaco (the "city"), which you represent, received an open records request for various records pertaining to the city's mowing of property owned by a certain individual. You explain:

The City of Weslaco has authority granted to it by the City Code of Ordinances to Mow the grass or weeds of any property that is in violation of City Ordinances, Section Nos. 16-10 through 16-20. A violation occurs when the height of the grass or weeds exceeds 12 inches. The landowner is notified that his property is in violation and that if he/she does not remedy the situation, the City may take action by mowing the property and billing the landowner. If the City does, in fact, mow the property, the landowner is billed. A certified letter is sent to the landowner and if the bill is not paid, a lien is attached to the property.

The requestor specifically asks for records concerning the city's mowing of the property, the property's previous history of being mowed by the city, and whether the property owner has paid the city for the mowings.

You do not argue that any of the Open Records Act's exceptions to required public disclosure apply to the requested information, but rather inquire as to whether the request implicates the property owner's privacy interests. Section 552.101 of the

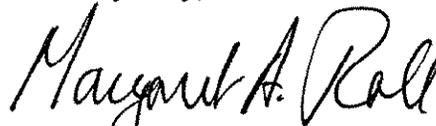
Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

In Open Records Decision No. 385 (1983), this office addressed the extent to which records concerning accounts receivable at a publicly owned hospital were public information. The opinion noted that former V.T.C.S. article 6252-17a, section 6(3) (now found at section 552.022 of the Government Code) specifically made public "information in any account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body, not otherwise made confidential by law," and concluded that there was a legitimate public interest in the basic facts regarding a particular financial transaction between an individual and a governmental body. Accordingly, this office held that the hospital debtors' names, account numbers, amounts owed, and the dates upon which the accounts became delinquent did not come under the protection of common-law privacy and therefore must be released to the public.

We conclude that Open Records Decision No. 385 governs your request. A property owner's history of having the city mow his or her property for a fee, and the fact that the property owner subsequently refused to pay that fee, constitute details of a financial transaction between an individual and the city in which the public has a legitimate public interest. The requested information is not protected by common-law privacy and therefore must be released.¹

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 our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

¹We note that City Ordinance section 16-19 provides for criminal penalties where a public nuisance, such as unkempt property, is not abated at the city's request. However, none of the records that you submitted to this office for review reflect any criminal prosecution against the property owner. We therefore need not address here whether the requested records constitute a confidential compilation of criminal history information. See Open Records Decision No. 127 (1976) at 6.

MAR/RWP/rho

Ref.: ID# 29550

Enclosures: Submitted documents

cc: Mr. Vincent Sanchez
110 South Bridge Avenue
Weslaco, Texas 78596
(w/o enclosures)