



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 30, 1994

Mr. Lonnie E. Blaydes
Interim General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-7255

OR94-888

Dear Mr. Blaydes:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code (formerly V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 22700.

The Dallas Area Rapid Transit (the "DART") received an open records request for information regarding an employee. In particular, the requestor is seeking documentation on a background check ordered regarding the employee. You indicate that the DART will release all the requested information except that section of the document pertaining to background financial information about the employee's financial status and past financial history. You claim that this information is excepted from disclosure under section 552.101 of the Government Code (formerly section 3(a)(1) of article 6252-17a, V.T.C.S.) and common-law privacy.

Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Under section 552.101, information may be withheld on the basis of common-law privacy if it is highly intimate or embarrassing so that its release would be highly objectionable to a person of ordinary sensibilities and there is no legitimate public interest in its disclosure. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision Nos. 579 at 2, 562 at 9, 561 at 5, 554 at 3 (1990); *see*

¹We note that the Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46.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

also Hubert v. Harte-Hanks Tex. Newspapers, 652 S.W.2d 546, 550 (Tex. App.--Austin 1983, writ ref'd n.r.e.). We note that some of the submitted information contains detailed statements of the employee's financial background and status. The DART states that any of the information pertaining to the employee's financial background that does not directly relate to his relationship with the DART should be excepted from disclosure under common-law privacy.

In Open Records Decision No. 373 (1983), this office concluded that financial information relating to an individual including his financial status, bills, and credit history meets the first prong of the common-law privacy test; it constitutes highly intimate or embarrassing facts about an individual. Furthermore, in this case, there does not appear to be any legitimate interest for the disclosure of such information. *See also* Open Records Decision Nos. 600 (1992); 590 (1991); 545 (1990). The information at issue does not directly relate to the employee's relationship with the DART. Thus, there is no legitimate public interest in the disclosure of the information, and you must withhold it under the doctrine of common-law privacy.

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 our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/JCH/KKO/rho

Ref.: ID# 22700

Enclosures: Submitted documents

cc: Mr. Leonard Chaires
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(w/o enclosures)