



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 15, 1996

Mr. Robin Collins  
Lewis & Collins  
1220 Montana Avenue  
El Paso, Texas 79902

OR96-0708

Dear Mr. Collins:

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# 39367.

The Ysleta Independent School District (the "district"), which you represent, received a request for the home address of three children who attend district schools. As you state in your letter to our office, the address of a student is generally not protected under the confidentiality provisions of the Family Educational Rights and Privacy Act ("FERPA"), title 20 of the United States Code, section 1232g. "Directory information," which includes a student's address, is not subject to the FERPA confidentiality provisions. *Id.* § 1232g(b)(1). You ask, however, whether the requested address is made confidential by a "Temporary Ex Parte Protective Order and Show Cause Order" (the "order") from a family law case involving the students who are the subject of the pending request.

Information that is expressly made confidential by a court order must be withheld from disclosure under section 552.107(2). We find, however, that the order you submitted does not on its face prohibit the release of the requested address of the children. Although the address of the applicant, who is apparently the mother of the children at issue, is listed as "CONFIDENTIAL," the order does not specifically refer to the address of the children at issue, nor does the order specifically prohibit any entity from releasing this information. Thus, based on the order you submitted, we are unable to find that the information is confidential under section 552.107(2).

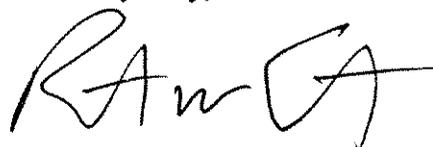
We find, however, that the requested information is confidential under section 552.101 of the Government Code. Section 552.101 excepts from required public disclosure information considered to be confidential by law, including information made

confidential by judicial decision. This exception applies to information made confidential by 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). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.*

In Open Records Decision No. 169 (1977), this office held that an individual's home address normally may not be withheld from the public on privacy grounds without a demonstration of "truly exceptional circumstances such as, for instance, an imminent threat of physical danger." *Id.* at 6. The special circumstances must be more than a desire for privacy or a generalized fear of harassment or retribution. *Id.* In determining whether special circumstances existed to justify withhold an address under privacy grounds, this office considered an individual's efforts to protect the individual's home address, such as not listing one's address or telephone number in the telephone directory, moving to avoid harassment, or evidence that an individual is under an imminent threat of physical danger. *Id.* We believe that obtaining a protective order to protect against possible family violence and listing the family's address as "confidential" within the order are sufficient to demonstrate special circumstances under section 552.101 for withholding the children's address. Therefore, you may not release the requested information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "RWS" followed by a stylized flourish.

Robert W. Schmidt  
Assistant Attorney General  
Open Records Division

RWS/rho

Ref.: ID# 39367

cc: Mr. Roberto Palma  
10104 Maurice  
El Paso, Texas 79927