



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 23, 1997

Ms. Kimberly L. Kiplin
Acting Executive Director
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630

OR97-0916

Dear Ms. Kiplin:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 105472.

The Texas Lottery Commission (the "commission") received a request for "the names, ages and hometowns of the principle [sic] members of the A.M.R. Partnership." The A.M.R. Partnership won the Lotto Texas jackpot on December 25, 1996, and, therefore, the commission has documents regarding the corporate status of A.M.R. Partnership. On behalf of Mr. Jeffrey Frasier, an attorney representing A.M.R. Partnership, you ask whether the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with constitutional or common-law privacy. We have considered the exception you claim and have reviewed the documents at issue.

Initially, we note that section 466.022 of the Government Code makes the street address and telephone number of a prize winner confidential if the prize winner has not consented to the release of the information. The individual who claimed the prize money on behalf of A.M.R. Partnership is one of the individuals about whom the requestor is seeking information. He has not consented to the release of his street address and telephone number. Because his "hometown" is part of his street address, we conclude that this individual's hometown is confidential pursuant to section 466.022 of the Government Code.

We now consider whether the other requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with the

constitutional or common-law right to privacy. Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 also encompasses the doctrines of constitutional and common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683.

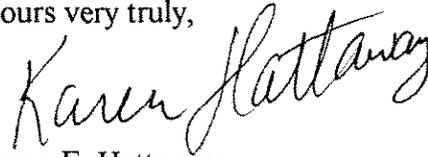
Constitutional privacy consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions independently and (2) an individual's interest in avoiding disclosure of personal matters. Open Records Decision No. 455 (1987) at 4. The first type protects an individual's autonomy within "zones of privacy" which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. *Id.* The second type of constitutional privacy requires a balancing between the individual's privacy interests and the public's need to know information of public concern. *Id.* The scope of information protected is narrower than that under the common-law doctrine of privacy; the information must concern the "most intimate aspects of human affairs." *Id.* at 5 (citing *Ramie v. City of Hedwig Village, Texas*, 765 F.2d 490 (5th Cir. 1985)).

This office has found that the following types of information are excepted from required public disclosure under constitutional or common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps), personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990), information concerning the intimate relations between individuals and their family members, *see* Open Records Decision No. 470 (1987), and identities of victims of sexual abuse or the detailed description of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982).

The information at issue is not the type of information that is protected by the constitutional or common-law rights to privacy. Therefore, we conclude that this information is not excepted from disclosure under section 552.101. With the exception of the "hometown" of the individual who claimed the prize money, the requested information must be released.

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/alg

Ref: ID# 105472

Enclosures: Submitted documents

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