



Office of the Attorney General

State of Texas

August 11, 1998

DAN MORALES

ATTORNEY GENERAL

Ms. Sealy Hutchings
General Counsel
Office of Consumer Credit Commissioner
2601 N. Lamar Blvd.
Austin, Texas 78705

OR98-1898

Dear Ms. Hutchings:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117672.

The Office of Consumer Credit Commissioner (the "OCCC") received a request for several categories of information, including correspondence and conversations involving Richard Woodward and information relating to certain automobile dealerships. You explain that you will furnish the requestor with some of the requested information. You claim that portions of the requested information are excepted from disclosure under sections 552.101, 552.110, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, you object to the "overly broad [request] because it does not specify a time period for the requested information." Numerous opinions of this office have addressed situations in which a governmental body has received either an "overbroad" written request for information or a written request for information that the governmental body is unable to identify. Open Records Decision No. 561 (1990) at 8-9 states:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

Gov't Code § 552.222(b) (governmental body may ask requestor to clarify request if request for information is unclear). Therefore, in response to the request at issue here, the OCCC must make a good-faith effort to relate the request to information in the OCCC's possession and must help the requestor to clarify his request by advising him of the types of information available. However, a request for records made pursuant to the Open Records Act may not be disregarded simply because a citizen does not specify the exact documents he desires. Open Records Decision No. 87 (1975).

Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. In addition, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. Open Records Decision No. 615 (1993) at 4-5. We have marked the information in Attachments B-D that you may withhold under section 552.111.

Next, you contend that some of the information in Attachments E and F is personal financial information that is excepted from public disclosure by section 552.101. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 also encompasses common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1. We have marked the personal financial information that must be withheld as it is protected by common-law privacy. *See* Open Records Decision No. 545 (1990) (personal financial information, *e.g.*, mortgage payments, assets, bills, and credit history, are confidential under common-law privacy).

Lastly, Attachments E and F also contain information excepted from public

disclosure by section 552.130. Section 552.130 provides in relevant part as follows:

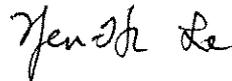
(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. Therefore, you must withhold the motor vehicle record information, which we have marked, pursuant to section 552.130.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 117672

Enclosures: Marked documents

cc: Mr. James D. Blume
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(w/o enclosures)