



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 5, 1998

Mr. Robert Roeder
Abernathy, Roeder, Robertson, Boyd & Joplin
101 East Davis Street
McKinney, Texas 75069-1210

OR98-2618

Dear Mr. Roeder:

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. Your request was assigned ID# 119244.

Collin County (the "county") received a request for "[e]ach and every [l]andowner's name, corresponding address, and corresponding parcel number for every real property that will be acquired by and/or for Collin County, in part or in whole, for each of the Collin County construction projects that exist on FM 544, FM 982, and FM 2514." You have submitted a representative sample of information relating to the FM 544 project.¹ You claim that the submitted information is excepted from disclosure by a right of privacy.

You have not, however, submitted information relating to the FM 982 or FM 2514 projects. You claim that documents for these projects have not yet been compiled. We note that the act does not require a governmental body to make available information which does not exist, nor does it require a governmental body to prepare new information. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 (1992), 362 (1983). Nevertheless, the county must make a good faith effort to relate a request to information it holds. Open Records Decision No. 87 (1975); see Gov't Code § 552.353 (providing penalties for failure to permit access to public information). Your arguments suggest that responsive

¹We 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.

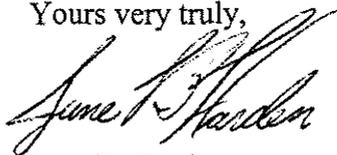
information exists but not in the requested form. Thus, if the requested information is contained in any documents held by the county, it must be immediately released. Gov't Code § 552.221. If no responsive information relating to these projects exists, you need not respond to this portion of the request.

We will now consider your arguments for the submitted documents. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section 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 at 1 (1992). The information you seek to withhold consists of publicly-filed deed information. Documents filed with the county clerk are public and must be disclosed. See Local Gov't Code § 192.001 (duty of county clerk to record deeds, mortgages and other instruments); see also *Star-Telegram v. Walker*, 834 S.W.2d 54, 57-58 (Tex. 1992). Furthermore, because of the public nature of these documents, we do not believe that this information is protected by a right of privacy.

You also seek a ruling from this office "as to the exempt status of appraisals and right-of-way purchase information." It does not appear that the requestor seeks this information. Nor does it appear that this information has been submitted to this office for review. Consequently, we will not address the public nature of this information. See Gov't Code 552.301.

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 119244

Enclosures: Submitted documents

cc: Mr. Mark Heidenheimer
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(w/o enclosures)