

February 8, 1999

Ms. Joy Fitzgerald
Executive Director
Housing Authority of the City of Houston
P.O. Box 2971
Houston, Texas 77252-2971

OR99-0371



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Dear Ms. Fitzgerald:

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# 121961.

The Housing Authority of the City of Houston (the "authority") received a request for the names and addresses of all individuals or households on waiting lists for public and Section 8 housing. You claim that the requested information is protected by a right of privacy under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses both common-law and constitutional privacy. Common-law privacy 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 constitutional right to privacy protects two interests. Open Records Decision No. 600 at 4 (1992) (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490 (5th Cir. 1985), *cert. denied*, 474 U.S. 1062 (1986)). The first is the interest in independence in making certain important decisions related to the "zones of privacy" recognized by the United States Supreme Court. Open Records Decision No. 600 at 4 (1992). The zones of privacy recognized by the United States Supreme Court are matters pertaining to marriage, procreation, contraception, family relationships, and child rearing and education. *See id.*

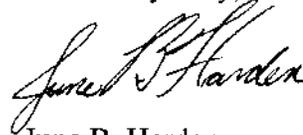
The second interest is the interest in avoiding disclosure of personal matters. The test for whether information may be publicly disclosed without violating

constitutional privacy rights involves a balancing of the individual's privacy interests against the public's need to know information of public concern. *See* Open Records Decision No. 455 at 5-7 (1987) (citing *Fadjo v. Coon*, 633 F.2d 1172, 1176 (5th Cir. 1981)). The scope of information considered private under the constitutional doctrine is far narrower than that under the common law; the material must concern the "most intimate aspects of human affairs." *See* Open Records Decision No. 455 at 5 (1987) (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490, 492 (5th Cir. 1985), *cert. denied*, 474 U.S. 1062 (1986)).

After examining the submitted documents, we conclude that the requested information is not protected by a right of privacy. Open Records Decision No. 318 (1982) (concluding that names and present addresses of former residents of a public housing development were not excepted by constitutional or common law privacy). *But see* Open Records Decision No. 373 (1983) (concluding that personal financial information is protected by privacy and federal law). Accordingly, the authority must release the responsive information to the requestor.

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# 121961

Enclosures: Submitted documents

cc: Mr. Michael Snyder
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Houston Chronicle
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(w/o enclosures)