



April 30, 1999

Mr. William T. Buida
Assistant General Counsel
Texas Department of Human Services
P.O. Box 149030
Austin, Texas 78714-9030

OR99-1192

Dear Mr. Buida:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123824.

The Texas Department of Human Services (the "department") received a request from an attorney representing the T.L.C. Adult Day Care Centers, Inc. (the "center") for information concerning the center, a former center employee, an investigation of an allegation of abuse of neglect at the center's Raymondville facility and an index of any materials the department withholds from disclosure with a citation to the statutory authority for the withholding of information. You state that the department will release the final de-identified report of the investigation in accordance with the department's rules. *See* 40 T.A.C. § 9.123(e). You claim that the investigative materials are excepted from disclosure under section 552.101 of the Government Code in conjunction with section 48.101 of the Human Resources Code. We have considered the exception you claim and reviewed the submitted information.¹

Section 48.101 of the Human Resources Code reads in pertinent part as follows:

- (a) The following information is confidential and not subject to disclosure under Chapter 552, Government Code:
 - (1) a report of abuse, neglect, or exploitation made under this chapter;
 - (2) the identity of the person making the report; and
 - (3) except as provided by this section, all files, reports, records, communications,

¹You provide no response to the request for the index of the withheld materials. The Public Information Act does not require a governmental body to prepare new information in response to a request. Open Records Decision No. 452 (1986). Consequently, the department need not comply with the request to supply the index.

and working papers used or developed in an investigation made under this chapter of in providing services as a result of an investigation.

(b) Confidential information may be disclosed only for a purpose consistent with this chapter and as provided by department or investigating state agency rule and applicable federal law.

You state that the documents at issue are part of an investigation conducted under the authority of section 48.082 of the Human Resources Code, a provision concerning investigation of a report of abuse, neglect or exploitation of an elderly or disabled person.

We have reviewed the submitted information you have marked in yellow. We conclude that the information is deemed confidential by section 48.101(a). The department's rules on the public disclosure of investigative files do not permit the disclosure of the information. *See* 40 T.A.C. § 98.123(e). Accordingly, the department must not release the information to the requestor based on section 552.101 of the Government Code.

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.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KH/eaf

Ref.: ID# 123824

encl. Submitted documents

cc: Mr. Russell Cawyer
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(w/o enclosures)