



May 27, 1999

Mr. Jesus Toscano, Jr.
Administrative Assistant City Attorney
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR99-1467

Dear Mr. Toscano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126342.

The City of Dallas (the "city") received a request for the names of current city police officers who have authorized payroll deductions for the Dallas Police Association, the Texas Police Officers Association, and the Latino Police Officers Association. You seek to withhold the requested information under sections 552.101 and 552.102 of the Government Code.

Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

In Open Records Decision No. 373 (1983), this office addressed the availability of personal financial information submitted to a city by an applicant for a housing rehabilitation grant. In that decision, this office concluded:

all financial information relating to an individual -- including sources of income, salary, mortgage payments, assets, medical and utility bills, social security and veterans benefits, retirement and state assistance benefits, and credit history -- ordinarily satisfies the first requirement of common law privacy, in that it constitutes highly intimate or embarrassing facts about the individual, such that its public disclosure would be highly objectionable to a person of ordinary sensibilities.

Open Records Decision No. 373 at 3. Whether the public has a legitimate interest in such information, however, must be determined on a case-by-case basis. *Id.* at 4; *see also* Open Records Decision Nos. 600 (1992); 545 (1990). In Open Records Decision No. 545, this office applied a similar presumption to personal financial information of public employees and held that, absent “special circumstances,” information concerning a public employee’s participation in a deferred compensation plan is protected from disclosure by common-law privacy. Open Records Decision No. 545 at 4-5.

In our opinion, the requested information is protected by common-law privacy, since the choice to have the payroll deductions in question made is a personal financial decision which does not affect the expenditure or receipt of public funds. Therefore you must withhold the requested information under the common-law privacy aspect of section 552.101. Since we have resolved this request under section 552.101, we need not address your claim under section 552.102.

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,



William Walker
Assistant Attorney General
Open Records Division

WMW/eaf

Ref.: ID# 126342

encl. Submitted documents

cc: Mr. Rick Wilson
Dallas Police Patrolmen’s Union
1414 North Washington
Dallas, Texas 75204
(w/o enclosures)