



May 27, 1999

Ms. Lisa Aguilar
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR99-1472

Dear Ms. Aguilar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125490.

The Corpus Christi Community Improvement Corporation (the "CCCIC") received a request for a particular loan file. We do not understand you to raise any exceptions to disclosure of the requested information. You ask rather if release of the requested information would violate section 552.352 of the Government Code, which makes it a criminal offense to release information "considered confidential under" chapter 552.

You note that the CCCIC operates under a federal program and "receives federal funds . . . which are distributed to qualified home buyers to assist in their down payment costs." The requestor here "is the agency which made the loan" to which the requested "loan file" relates. You have not advised this office of any federal provisions which specifically address the releasability of information CCCIC holds in connection with such federal program, either to the requestor here or to the public at large. We urge you to ensure that the disclosability of the requested information is not subject to federal laws governing the program. Should such provisions of federal law be brought to your attention, you must act in accordance with them. As you are aware, section 552.352 provides criminal penalties for release of confidential information.

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. Certain personal financial information may be excepted from required public disclosure by common-law privacy. 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. 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). We have marked information which must be withheld under common-law privacy.

We have also marked federal tax return information in the submitted records. This information is made confidential by federal law and must be withheld from public release. *See* title 26 U.S.C. section 6103.

Also, we have marked a copy of a Texas driver's license. Section 552.130 of the Government Code provides in relevant part as follows:

(a) Information is excepted from [required public disclosure] 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[.]

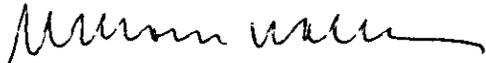
The CCCIC must withhold the copy of the driver's license under section 552.130.

The submitted information also contains social security numbers. We have marked a social security number in the information by way of example. This office concluded in Open Records Decision No. 622 (1994) that amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(vii), make confidential any social security number obtained or maintained by any "authorized person" pursuant to any provision of law, enacted on or after October 1, 1990. Any such social security number is therefore excepted from required public disclosure by section 552.101 of the Government Code, which excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." It is not apparent to us that the social security numbers at issue here was obtained or is maintained by pursuant to any provision of law, enacted on or after October 1, 1990. You, again, have cited no law, and we are aware of no law, enacted on or after October 1, 1990, that authorizes the CCCIC to obtain or maintain a social security number. Therefore, we

have no basis for concluding that the social security number at issue was obtained or is maintained pursuant to such a statute and is therefore confidential under section 552.101 of the Government Code in conjunction with 405(c)(2)(C)(vii). Again, however, section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Prior to releasing the social security number, the CCCIC should ensure that the number was not obtained nor is maintained by the CCCIC pursuant to any provision of law, enacted on or after October 1, 1990.

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# 125490

encl. Marked documents

cc: Ms. Debbie L. Bibb
Franklin American Mortgage Company
501 Corporate Centre Drive, Suite 400
Franklin, Tennessee 37067
(w/o enclosures)