



July 15, 1999

Ms. Heather Silver
Assistant City Attorney
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR99-1970

Dear Ms. Silver:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 126527.

The City of Dallas (the "city") received a written request for the following categories of information:

1. All public improvement request forms submitted to your agency or any city entity by any organization or individual seeking funding from U.S. Department of Housing and Urban Development (HUD) funds through the City of Dallas in the period 1994 - present.
2. All contracts between the City of Dallas or any City of Dallas entity and any individual or organization granted money by the City of Dallas from HUD funds in the period 1994-1995.
3. All financial declarations or any financial materials, references, proofs, letters of credit or any other financial information provided to the City of Dallas or any City of Dallas entity by any individual or organization seeking and/or granted money by the City of Dallas from HUD funds in the period 1994-1995.

You state that some of the requested information will be made available to the requestor. You specifically seek to withhold, however, financial information submitted to the city by applicants for HUD funds pursuant to sections 552.101 and 552.110 of the Government Code. You have submitted to this office as responsive to the request a representative sample of the records at issue.

Section 552.101 of the Government Code protects “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Citing Open Records Decision No. 373 (1983) as authority, you contend that information revealing individual applicants’ financial background is protected from public disclosure pursuant to the common-law right of privacy in conjunction with section 552.101 of the Government Code. Section 552.101 protects information coming within the common-law right to privacy. *Industrial Found. 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.

Some of the documents you submitted to us for review contain information about individual applicants’ financial history and past credit history. This information reveals the applicants’ sources of income, salary, mortgage payments, assets, credit history, and other personal financial information. We conclude that this type of information is highly intimate or embarrassing. Moreover, the information you have provided does not indicate any special circumstances that would make the applicants’ personal financial information a matter of legitimate public concern. In accordance with Open Records Decision No. 373, we conclude that the city must withhold such information from the public pursuant to section 552.101 of the Government Code.¹

¹In reaching our conclusion here, we 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 No. 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.

The remaining documents, however, pertain to the assets and other business dealings of non-profit corporations. Corporations do not have a right to privacy. *See* Open Records Decision No. 192 (1978). The right of privacy is intended to protect the feelings and sensibilities of human beings; it does not protect information about private corporations. Open Records Decision No. 624 (1994) and authorities cited therein. Thus, although the remaining information submitted to this office constitutes the background financial information of the corporations that sought HUD funds through the city, those corporations have no right of privacy in that information. This information therefore may not be withheld pursuant to section 552.101 of the Government Code.

Nor do we believe that the subject non-profit corporations have a proprietary interest in withholding this information from the public for purposes of section 552.110 of the Government Code. Section 552.110 of the Government Code protects “[a] trade secret or commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision.” We note that article 1396-2.23A(c), V.T.C.S., the Texas Non-Profit Corporation Act, provides that, with certain exceptions not applicable here, all records, books, and annual reports of non-profit corporations established under that article must be kept at the registered office or principal office of the corporation for at least three years and must be made available to the public for inspection and copying. Information specifically made public by statute may not be withheld from the public by any of the Texas Public Information Act’s exceptions to public disclosure. *See, e.g.*, Open Records Decision Nos. 544 (1990), 378 (1983), 161 (1977), 146 (1976). We conclude, therefore, that the records submitted to the city by the non-profit corporations must be released to the requestor.²

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,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

²Although you also contend that these records are made confidential under federal law, we find the federal provision you have cited to be inapposite. Section 3544(e), title 42 of the United States Code, prohibits the release of applicant information by third parties absent certain conditions. This subsection does not address the release of applicant information to the public. Nor does it appear to this office that the penalties provided in section 3544(c)(3) for the release of certain applicant information apply to any of the information at issue here.

KEH/RWP/eaf

Ref.: ID# 126527

Encl. Submitted documents

cc: Mr. Jim Schutze
8046 Brya Parkway
Dallas, Texas 75206
(w/o enclosures)