



January 21, 2000

Mr. José R. Guerrero
Montalvo & Ramirez
Attorneys at Law
900 N. Main
McAllen, Texas 78501

OR2000-0199

Dear Mr. Guerrero:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#131407.

The Weslaco Independent School District (the “district”), which you represent, received a request for a list of all members of the Weslaco Federation Union (the “union”). You explain that because the district does not maintain a list of *all* members of the union, you assume that the requestor is requesting a list of *district employees* who are members of the union. You further explain that because the district does not maintain any lists which catalogue its employees’ union affiliation, the district can only determine which of its employees are union members by examining employee payroll sheets that indicate payment of union dues through payroll deduction. You explain that releasing the names on the payroll sheet would necessarily reveal the decision of district employees to pay union dues through payroll deduction. You argue that the decision to pay union dues is a personal investment decision which is confidential under section 552.101 of the Government Code based on common law privacy. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code protects “information considered to be confidential by law, either constitutional, statutory, or by judicial decision,” including information protected by the common law right of privacy. The doctrine of 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 the public has no legitimate interest in it. *Industrial*

Found. v. Texas Indus. Accident Bd., 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Personal financial information generally is excepted from public disclosure under common law privacy, except to the extent the information reflects a transaction between the employee and the governmental body. Open Records Decision Nos. 600 (1992) (information about public employee's participation in a group insurance program, retirement benefits beneficiaries, tax exempt reimbursement accounts, and direct deposit), 545 (1990) (information about a public employee's participation in a deferred compensation plan). We believe that an employee's decision to pay union dues through payroll deduction is personal financial information that is confidential under section 552.101 based on common law privacy. Therefore, we agree that you must not release the requested information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

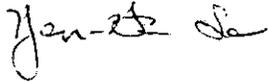
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/KSK/ljp

Ref: ID#131407

Encl. Submitted documents

cc: Mr. Manuel Rodriguez
R.R. Box 3822
Weslaco, Texas 78596
(w/o enclosures)