



December 1, 2000

Mr. Devin "Buck" Benson  
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OR2000-4578

Dear Mr. Benson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 142397.

The Brownsville Public Utilities Board ("BPUB") received a request for all information on a named customer as well as the names, addresses, phone numbers, and social security numbers of all other owners of a specified property. You assert that the request was made for information about the named customer only when she resided at her old address; therefore, information in her account for her new address is not subject to the request. However, the requestor sought access to:

Any and all information on [the named customer], [the customer] did reside at [the old address]. All other names, all address [sic], all phone numbers, and all social security numbers on filed [sic] with your utility of the [named customer] or owners of property....

We read this as a request for all information on the named customer, not just that information pertaining to her old address, as well as names, addresses, phone numbers, and social security numbers of any other owners of her old address. Therefore, all information held by BPUB on the named customer is subject to the request. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "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. *Indus. Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). You contend that the following information is excepted from disclosure under the common law right to privacy and section 552.101:

- a. social security number;
- b. Texas driver's license number;
- c. place of employment;
- d. employment address and telephone number;
- e. personal reference;
- f. personal reference's address and telephone number;
- g. bank account number;
- h. name of customer's primary bank;
- i. type of bank account;
- j. date of birth;
- k. name of landlord, if any;
- l. marital status;
- m. name of spouse;
- n. spouse's social security name [sic];
- o. spouse's Texas driver's license number;
- p. spouse's place of employment; and
- q. spouse's employment address and telephone number.

We have previously found that personal financial information is considered intimate information and is therefore generally excepted from public disclosure under common law privacy, except to the extent the information reflects a transaction between the employee and the governmental body. *See* Open Records Decision No. 373 (1983). Therefore, we agree that the name of the customer's bank as well as the type and number of the customer's bank account are protected under the customer's common law right to privacy. However, with respect to the remainder of the listed information, you have failed to demonstrate how any of the information constitutes intimate or embarrassing information.

We note, however, that a social security number is excepted from required public disclosure under section 552.101 of the Government Code in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 (1994). You have cited no law, nor are we aware of any law, enacted on or after October 1, 1990, that authorizes BPUB to obtain or maintain a social security number. Therefore, we have no basis for concluding that the social security numbers at issue were obtained or are maintained pursuant to such a statute and are, therefore, confidential under section 405(c)(2)(C)(vii)(I). We caution, however, that section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Prior to releasing the social security numbers, BPUB should ensure that the numbers were not obtained or are not maintained by the BPUB pursuant to any provision of law enacted on or after October 1, 1990.

You also contend that the Texas driver's license numbers included in the responsive information are excepted from disclosure under section 552.130. Under section 552.130(a)(1) of the Government Code, information relating to "a motor vehicle operator's or driver's license or permit issued by an agency of this state" is excepted from application of the disclosure requirements of the Public Information Act. Gov't Code § 552.130(a)(1). Therefore, to the extent the responsive information includes Texas driver's license numbers, you must withhold the numbers under section 552.130(a) of the Government Code.

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).

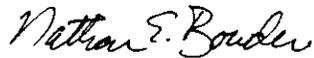
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

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,



Nathan E. Bowden  
Assistant Attorney General  
Open Records Division

NEB\er

Ref: ID# 142397

cc: Mr. Sam Wallace  
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