



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 12, 2006

Mr. Paul J. Stewart
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469-3108

OR2006-00399

Dear Mr. Stewart:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 240290.

The Fort Bend County Treasurer's Office (the "treasurer's office") received a request for a list of Unclaimed Funds from Estates of Deceased Persons and Unclaimed Property Lists for a specified value and time period. You state that some responsive information has been released. You claim that the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by statute. Gov't Code § 552.101. Section 552.101 encompasses section 74.104 of the Property Code. Title 6 of the Property Code pertains to unclaimed property. Several provisions of Title 6 govern the conditions under which different types of property are presumed to be abandoned by the owner of the property. *See, e.g.*, Prop. Code §§ 72.101 (personal property), 73.101 (property held by financial institution), 75.101 (mineral proceeds, and owner's underlying right to receive mineral proceeds). Under chapter 74 of the Property Code, a holder of property presumed abandoned under chapter 72, 73, or 75 of the Property Code, or under chapter 154 of the Finance Code, must file a report of the property with the Comptroller of Public Accounts (the "comptroller").¹ *See* Prop. Code § 74.101. Under section 76.101 of the Property Code, a

¹Chapter 154 of the Finance Code governs contracts for prepaid funeral services. *See* Fin. Code § 154.301 (presumption of abandonment for money paid by purchaser of prepaid funeral benefits contract).

municipality holding property that is presumed abandoned and is subject to chapter 76 must file a report of the property with the treasurer of the municipality.² See Prop Code § 76.101. The public availability of the property reports required under section 74.101 is governed by sections 74.104 and 76.104 of the Property Code. Section 74.104 provides:

(a) Except as provided by Section 74.201, 74.203, or 74.307, a property report filed with the Comptroller under section 74.101 is confidential until the second anniversary of the date the report is filed.

(b) The social security number of an owner that is provided to the comptroller is confidential.

Prop. Code § 74.104(a), (b). Section 76.104 of the Property Code applies to property held by a school district, municipality, or county and provides the following:

(a) Except as provided by this chapter, a property report filed with the treasurer of the holder is confidential until the second anniversary of the date the report is filed.

(b) Notwithstanding other law, the social security number of an owner that is reported to the treasurer of the holder is confidential.

Prop. Code § 76.104(a), (b). With respect to the information you seek to withhold, you state that “it contains property records filed with the comptroller within the last two years, which contain the social security numbers of certain owners.” Upon review of your comments and the submitted information, we find that the treasurer’s office has demonstrated, and the documents reflect, that sections 74.104 and 76.104 apply to the submitted information. Thus, the submitted information is excepted from disclosure under section 552.101 of the Government Code in conjunction with sections 74.104 and 76.104 of the Property 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

²Chapter 76 of the Property Code applies to property held by a school district, municipality, or county that is presumed abandoned under chapter 72 or chapter 75 and is valued at \$100 or less. See Prop. Code § 76.001. Chapter 74 of the Property Code does not apply to property that is subject to chapter 76 of the Property Code. See Prop. Code § 74.001.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Hadassah Schloss at the Office of the Attorney General 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,



Candice M. De La Garza
Assistant Attorney General
Open Records Division

CMD/krl

Ref: ID# 240290

Enc. Submitted documents

c: Mr. Brad D. Nalder
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(w/o enclosures)