



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 4, 2009

Ms. Susan K. Durso
General Counsel
Texas Residential Construction Commission
P.O. Box 13509
Austin, Texas 78711-3509

OR2009-01449

Dear Ms. Durso:

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# 334015 (TRCC Public Information Request #2325).

The Texas Residential Construction Commission (the "commission") received a request for all complaints and other information pertaining to a named individual and his business. You state that the commission has released some of the requested information. You inform us that the commission has redacted some information, including social security numbers, addresses of complainants, Texas motor vehicle information, e-mail addresses, and bank account information, based on an agreement with the requestor. Accordingly, any of this information contained within the submitted documents is not responsive to the request for information. You claim that Exhibit C is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed Exhibit C.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U. S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in

compilation of one's criminal history). Furthermore, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. Therefore, the commission must withhold the criminal history information we have marked in Exhibit C under section 552.101 in conjunction with common-law privacy.

We note the remaining information in Exhibit C contains financial information that is confidential under common-law privacy. This office has found that personal financial information not related to a financial transaction between an individual and a governmental body is intimate and embarrassing. *See* Open Records Decision Nos. 545 (1990) (mortgage payments, assets, bills, and credit history protected under common-law privacy), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). Furthermore, we find that there is no legitimate public interest in the release of the information we have marked in Exhibit C in this instance. Therefore, the commission must withhold the financial information we have marked in Exhibit C under section 552.101 of the Government Code in conjunction with common-law privacy.

We note that the remaining financial information in Exhibit C pertains to a company. Common-law privacy protects the privacy interests of individuals, but not of corporations or other types of business organizations. *See* Open Records Decision Nos. 620 (1993) (corporation has no right to privacy), 192 (1978) (right to privacy is designed primarily to protect human feelings and sensibilities, rather than property, business, or other pecuniary interests); *see also* *U. S. v. Morton Salt Co.*, 338 U.S. 632, 652 (1950); *Rosen v. Matthews Constr. Co.*, 777 S.W.2d 434 (Tex. App.—Houston [14th Dist.] 1989), *rev'd on other grounds*, 796 S.W.2d 692 (Tex. 1990) (corporation has no right to privacy). Accordingly, we conclude that the remaining financial information in Exhibit C is not protected under the doctrine of common-law privacy and may not be withheld under section 552.101 on that basis. Additionally, upon review we find that the remaining information in Exhibit C is not highly intimate or embarrassing and is of legitimate public interest. Thus, the remaining information in Exhibit C may not be withheld under section 552.101 in conjunction with common-law privacy. As no further exceptions against its disclosure are raised, the remaining information in Exhibit C must be released to the requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in cursive script that reads "Laura E. Ream".

Laura E. Ream
Assistant Attorney General
Open Records Division

LER/jb

Ref: ID# 333015

Enc. Submitted documents

cc: Requestor
(w/o enclosures)