



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 27, 2009

Ms. Laura Garza Jimenez
Nueces County Attorney
Nueces County Courthouse
901 Leopard, Room 207
Corpus Christi, Texas 78401-3680

OR2009-04027

Dear Ms. Jimenez:

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# 338345.

The Nueces County Judge's Office (the "county") received a request for information pertaining to county employees and members of the county commissioner's court.¹ You state you will release some of the requested information to the requestor. You claim that a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

Initially, we note that the requestor specifically seeks "each employee's name and the amount of total compensation paid to them in the course of the year." Thus, we understand the requestor to request the names and net pay of the specified employees. Therefore, only the

¹You indicate that the requestor narrowed her request. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear, governmental body may ask requestor to clarify or narrow request).

²We 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 Nos. 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.

submitted names of employees and their net pay are responsive to the request. Accordingly, this ruling does not address the public availability of the rest of the submitted information, which is not responsive to this request, and the county need not release that information in response to this request.

Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Financial information that relates only to an individual ordinarily satisfies the first element of the common-law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 600 at 9-12 (1992) (identifying public and private portions of certain state personnel records), 545 at 4 (1990) (attorney general has found kinds of financial information not excepted from public disclosure by common-law privacy to generally be those regarding receipt of governmental funds or debts owed to governmental entities), 523 at 4 (1989) (noting distinction under common-law privacy between confidential background financial information furnished to public body about individual and basic facts regarding particular financial transaction between individual and public body), 373 at 4 (1983) (determination of whether public’s interest in obtaining personal financial information is sufficient to justify its disclosure must be made on case-by-case basis). This office has determined that a public employee’s net pay is protected by common-law privacy. *See* Attorney General Opinion GA-0572 at 3-5 (2007) (stating that net salary necessarily involves disclosure of information about personal financial decisions and is background financial information about a given individual that is not of legitimate concern to the public). We therefore conclude that the county must withhold the net pay information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining responsive information must be released.

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 "C. Alvarado".

Christina Alvarado
Assistant Attorney General
Open Records Division

CA/cc

Ref: ID# 338345

Enc. Submitted documents

cc: Requestor
(w/o enclosures)