



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 30, 2009

Mr. Gary Grief  
Deputy Executive Director  
Texas Lottery Commission  
P.O. Box 16630  
Austin, Texas 78761-06630

OR2009-04101

Dear Mr. Grief

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# 339420.

The Texas Lottery Commission (the "commission") received a request for a copy of the Larry G. Wilkins Separate Property Trust agreement. You state, and provide documentation showing, that you have notified the Larry G. Wilkins Separate Property Trust (the "trust") of the request and of its opportunity to submit comments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclosure under Act). As of the date of this letter, we have not received comments from the trust explaining why the requested information should not be released. We have reviewed the submitted information and considered your arguments.

You assert that the submitted information is public information because it was collected, assembled, or maintained in connection with the transaction of official business. *See* Gov't Code § 552.002. We agree that the submitted trust agreement is public information subject to the Act. Accordingly, this information must be released, unless it falls within the scope of an exception to disclosure. *See id.* §§ 552.002(a), .021.

You also state that the “only exception to disclosure of information related to the claim process or the prize winner [is found in] section 466.022 of the [Government Code].” Section 466.022 of the Government Code provides in part:

(a) Except as otherwise provided by law, all commission records are subject to public inspection in accordance with Chapter 552.

(b) In addition to commission records excepted from disclosure under Chapter 552, the following information is confidential and is exempt from disclosure:

...

(3) the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information.

*Id.* § 466.022(a), (b)(3). You state that “only the street address and the telephone number of a prize winner are confidential.” *See id.* § 466.022(b)(3). We note, however, that section 466.022(b) provides that commission records are subject to the exceptions found in the Act. *See id.* § 466.022(b). As you acknowledge, our office has determined that trust agreements like the one in the instant case are subject to section 552.101 of the Government Code, one of the Act’s exceptions.

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. This section encompasses common-law privacy which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office has found that information that reflects an individual’s personal financial decisions and is not related to a financial transaction between the individual and a governmental body is protected by common-law privacy. *See Open Records Decision Nos. 600 (1992), 545 (1990)*. Upon review, we conclude that the submitted information reflects the trustor’s personal financial decisions and does not involve a financial transaction between him and a governmental body. Therefore, the submitted information is excepted from public disclosure under section 552.101 in conjunction with the common-law privacy.

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](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,



Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/rl

Ref: ID# 339420

Enc. Submitted documents

c: Requestor.  
(w/o enclosures)