



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 17, 2010

Ms. Andrea Sheehan  
Law Offices of Robert E. Luna, P.C.  
For Carrollton-Farmers Branch ISD  
4411 North Central Expressway  
Dallas, Texas 75205

OR2010-08889

Dear Ms. Sheehan:

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# 383260.

The Carrollton-Farmers Branch Independent School District (the "district"), which you represent, received a request for a copy of a letter presented by the district's superintendent to the school board regarding his residency in a hotel and his hotel receipt. You state you have released a portion of the requested information. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.102, and 552.117 of the Government Code. We have considered the exceptions 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." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. Section 552.102(a) excepts from public disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy [.]" Gov't Code § 552.102(a). Section 552.102 is applicable to information that relates to public officials and employees. *See* Open Records Decision No. 327 at 2 (1982) (anything relating to employee's employment and its terms constitutes information relevant to person's employment relationship and is part of employee's personnel file). The privacy analysis under section 552.102(a) is the same as the common-law privacy standard under section 552.101. *See Hubert v. Harte-Hanks Tex. Newspapers, Inc.*, 652 S.W.2d 546, 549-51

(Tex. App.—Austin 1983, *writ ref'd n.r.e.*) (addressing statutory predecessor). We will, therefore, consider the applicability of common-law privacy under section 552.101 together with your claim regarding section 552.102(a).

Common-law privacy 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 688, 685 (Tex.1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. Prior decisions of this office have determined that personal financial information not related to a transaction between an individual and a governmental body generally meets the first prong of the common-law privacy test. *See generally* Open Records Decision No. 600 (1992). However, there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See id.* at 9 (information revealing that employee participates in group insurance plan funded partly or wholly by governmental body is not excepted from disclosure); *see also* Open Decision Nos. 545 (1990) (financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common law privacy), 523 (1989). Whether financial information is subject to a legitimate public interest and, therefore, not protected by common-law privacy must be determined on a case-by-case basis. *See* Open Records Decision No. 373 (1983). Upon review, we agree the information we have marked in Exhibit B-1 reveals a personal expense of the superintendent, which you state was not paid by the district. Thus, we find the district must withhold the information we have marked in Exhibit B-1 under section 552.101 in conjunction with common-law privacy. However, we find that you have failed to demonstrate how the remaining information you seek to withhold in Exhibit B-1 pertains to a personal financial decision of the superintendent. Therefore, the remaining information in Exhibit B-1 may not be withheld under either section 552.101 or section 552.102 of the Government Code in conjunction with common-law privacy. Exhibit B-2 contains a real estate agreement for the superintendent's personal residence. The district is not a party to this agreement. Upon review, we agree the submitted agreement is personal financial information unrelated to a transaction with a governmental body. We, therefore, conclude the information in Exhibit B-2 must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>1</sup>

In summary, the district must withhold the information we have marked in Exhibit B-1 and the submitted information in Exhibit B-2 under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released.

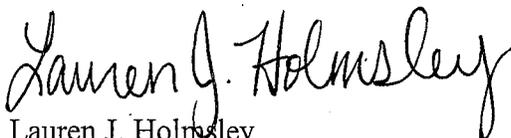
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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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\\_ori.php](http://www.oag.state.tx.us/open/index_ori.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, toll free at (888) 672-6787.

Sincerely,



Lauren J. Holmsley  
Assistant Attorney General  
Open Records Division

LJH/jb

Ref: ID# 383260

Enc. Submitted documents

c: Requestor  
(w/o enclosures)