



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 31, 2011

Ms. Casey L. Ware
Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744

OR2011-01584

Dear Ms. Ware:

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# 407600.

The Austin Firefighters Relief and Retirement Fund (the "fund"), which you represent, received a request for the pension benefits collected by five named individuals. You claim that the 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." Gov't Code § 552.101. This section encompasses information protected by other statutes. The Texas Local Firefighters Retirement Act ("TLFRA"), article 6243e.1 of Vernon's Texas Civil Statutes, provides in pertinent part:

Sec. 2.13 (a) Information contained in records in the custody of the fund concerning an individual member, retiree, annuitant, or beneficiary is confidential under Section 552.101, Government Code, and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual or the individual's attorney, guardian, executor, administrator, conservator, or other person who the administrator of the fund determines is acting in the interest of the individual or the individual's estate;

(B) a spouse or former spouse of the individual after the administrator of the fund determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the fund;

(C) a governmental official or employee after the administrator of the fund determines that disclosure of the information requested is reasonably necessary to the performance of the duties of the official or employee; or

(D) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed pursuant to a subpoena and the administrator of the fund determines that the individual will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, or beneficiary of the fund.

(c) A determination and disclosure under Subsection (a) may be made without notice to the individual member, retiree, annuitant, or beneficiary.

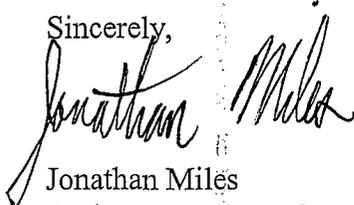
Tex. Rev. Civ. Stat. art. 6243e.1, § 2.13. You state that the fund is an entity formed under the authority of TLFRA. You assert the submitted information is "identifiable with a specific individual." We agree that the submitted information is in the custody of the fund and is subject to section 2.13 of article 6243e.1. You state the requestor is not a person to whom disclosure may be permitted under this provision, and you do not indicate the fund has otherwise been authorized to release the requested information. *See id.* § 2.13(a)(1). Based on these representations and our review of the information at issue, we conclude the submitted information is confidential under section 2.13 of article 6243e.1 of the Texas Revised Civil Statutes and must be withheld in its entirety pursuant to section 552.101 of the Government Code.¹

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.

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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Miles". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 407600

Enc. Submitted documents

c: Requestor
(w/o enclosures)