



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 11, 2011

Mr. Gary Grief
Executive Director
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630

OR2011-02145

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# 409016 (TLC # L-13537 and TLC # L-13574).

The Texas Lottery Commission (the "commission") received one request for a specified Texas Lottery Winner Claim Form and partnership agreement and a second request for the same partnership agreement.¹ You claim that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code.² We have also received and considered comments from a general partner of the partnership at issue (the "partner"). See Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the first requestor excluded the home address and telephone number from the request. Thus, any such information is not responsive to the first request for information. This ruling does not address the public availability of any information that is not responsive

¹We note the commission sought and received clarification from one of the requestors. See Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 384 (Tex. 2010) (where governmental body seeks clarification or narrowing of request for information, ten-day period to request attorney general decision is measured from the date request is clarified or narrowed).

²Although you also raised section 552.130 of the Government Code, you have not submitted any arguments regarding the applicability of this exception nor have you identified any information you seek to withhold under this exception. Therefore, we assume you no longer assert section 552.130 as an exception to disclosure. See Gov't Code §§ 552.301, .302.

to the request, and the commission is not required to release that information in response to the request.³

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses other laws that make information confidential. The commission states 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 [the Act].

(b) In addition to commission records excepted from disclosure under [the Act], 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). In particular, the commission states “only the street address and the telephone number of a prize winner are confidential.” *See id.* § 466.022(b)(3). We note, however, section 466.022(b) provides commission records are subject to the exceptions found in the Act. *See id.* § 466.022(b); *see also id.* § 466.022(a). We further note section 552.101 of the Government Code is one of these exceptions.

Section 552.101 also encompasses the doctrine of common-law privacy, which protects information if it (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 established. *Id.* at 681-82. The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* include information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found 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 the submitted partnership agreement reflects the partners’ personal financial decisions and does not involve a financial transaction between them and a governmental body. Therefore, the submitted partnership agreement is

³Accordingly, we do not address the partner’s arguments for this information.

excepted from public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy.⁴ The partner also claims the signature from the responsive portion of the claim form should be withheld under common-law privacy. However, upon review, we do not find any portion of the remaining information is highly intimate or embarrassing information of no legitimate public interest. Therefore, none of the remaining information is confidential under common-law privacy, and the commission may not withhold it under section 552.101 on that basis. As no further exceptions to disclosure are raised, the remaining information must be released.⁵

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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/vb

Ref: ID# 409016

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

Troy Parker
1610 Okeefe Road
Jacksonville, Texas 75766
(w/o enclosures)

⁴As our ruling is dispositive, we do not address the partner's arguments for this information.

⁵The remaining information contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.147(b).