



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 2, 2011

Mr. Thomas Kerss  
Sheriff  
Nacogdoches County Sheriff's Office  
2306 Douglass Highway  
Nacogdoches, Texas 75961

OR2011-05944

Dear Mr. Kerss:

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# 415964.

The Nacogdoches County Sheriff's Office (the "sheriff") received a request for all letters and financial statements provided by a named individual in response to a specified request and a specified bond and oath of surety provided by the named individual on a specified date. You state you have released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code. Further, you state release of the submitted information may implicate the interests of the named individual.<sup>1</sup> See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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 that is (1) highly intimate or embarrassing, the publication of which would be

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<sup>1</sup>We note we have not received comments from the named individual explaining why the submitted information should not be released. Accordingly, the sheriff may not withhold the submitted information on the basis of any interest the named individual may have in the information.

highly objectionable to a reasonable person and (2) 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 demonstrated. *See id.* at 681-82. This office has found personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). This office has found financial information relating only to an individual ordinarily satisfies the first requirement of the test for common-law privacy. *See* Open Records Decision Nos. 600 (designation of beneficiary of employee's retirement benefits, direct deposit authorization, and forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 523 (1989). However, whether financial information is of legitimate public interest, and therefore not protected by common-law privacy, must be determined on a case-by-case basis.

The submitted information consists of financial statements provided to the sheriff by the named individual for the purpose of obtaining approval of a bail bond license. Because the information was used by the sheriff to assess the status of bail bond licensure, we find there is a legitimate public interest in this information. *See* ORD 600 (legitimate public interest exists in facts about a financial transaction between individual and governmental body); *cf.* *Apodaca v. Montes*, 606 S.W.2d 734 (Tex. Civ. App.—El Paso 1980, no writ) (constitutional right of privacy does not protect personal financial information filed with county bail bond board as required to obtain a license to act as bondsman; recognizing public interest in such information). Thus, upon review, we find the submitted information is of legitimate public concern. Therefore, the information is not confidential under common-law privacy and the sheriff may not withhold it under section 552.101 of the Government Code on that ground.

You also argue section 552.136 of the Government Code for portions of the submitted information. Section 552.136 provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b). Section 552.136(a) defines “access device” as “a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). Accordingly, the sheriff must withhold the bank account and certificate of deposit numbers we have marked under

section 552.136 of the Government Code.<sup>2</sup> The remaining submitted 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](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/tf

Ref: ID# 415964

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Leo Graves  
P.O. Box 1012  
Carthage, Texas 75633  
(w/o enclosures)

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<sup>2</sup>We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including bank account numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.