



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

October 31, 2012

**Ms. Ashley R. Allen**  
**Staff Attorney, Legal Services Division**  
**Texas General Land Office**  
**P.O. Box 12873**  
**Austin, Texas 78711-2873**

OR2012-17409

**Dear Ms. Allen:**

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# 468128.

The Texas General Land Office (the "GLO") received a request for information related to administrative, management and staff positions at the Alamo, including the titles and salaries of Alamo personnel. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments, including the information you provided pursuant to section 552.303 of the Government Code, and reviewed the information you submitted.<sup>1</sup> We also have considered the comments we received from the requestor.<sup>2</sup>

We first note the requestor does not seek access to some of the submitted information, which consists of the names, titles, and salaries of Alamo personnel. Because the requestor only seeks access to the titles and salaries of Alamo personnel, their names are not responsive to

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<sup>1</sup>See Gov't Code § 552.303(c)-(d) (if attorney general determines information in addition to that required by Gov't Code § 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general not later than seventh calendar day after date of receipt of notice).

<sup>2</sup>See Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

the instant request. Therefore, this decision does not address the public availability of the submitted names of Alamo personnel, and the GLO need not release that information in response to the request.

We next note it is not clear whether the GLO complied with section 552.301 of the Government Code in requesting this decision. Section 552.301 prescribes procedures a governmental body must follow in asking this office to determine whether requested information is excepted from public disclosure. See Gov't Code § 552.301(a). Section 552.302 of the Government Code provides that if a governmental body fails to comply with section 552.301, the requested information is presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold any of the information. See *id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). This statutory presumption can generally be overcome when the information is confidential by law or third-party interests are at stake. See Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). In this instance, the GLO's claim under section 552.101 of the Government Code can provide a compelling reason for non-disclosure. Therefore, we need not determine whether the GLO complied with section 552.301 in requesting this decision and will consider your arguments under section 552.101.

You claim the responsive information is confidential under section 552.101 of the Government Code in conjunction with common-law privacy. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *Id.* at 681-82. This office has concluded common-law privacy protects certain types of personal financial information. Financial information related only to an individual ordinarily satisfies the first element of the common-law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. See Open Records Decision Nos. 600 at 9-12 (1992), 545 at 4 (1990), 523 at 4 (1989). The determination of whether the public has a legitimate interest in personal financial information is made on a case-by-case basis. See Open Records Decision Nos. 373 at 4 (1983), 385 at 2 (1983).

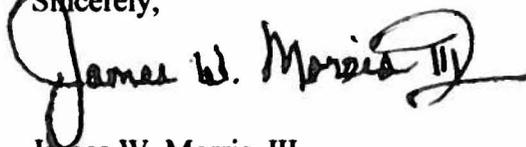
We note, and you acknowledge, the 82nd Legislature gave the GLO statutory authority to manage the Alamo complex. See Nat. Res. Code § 31.451(a) ("The Alamo complex is under the jurisdiction of the [GLO]"). The 82nd Legislature also authorized the GLO to "enter into an agreement with the Daughters of the Republic of Texas [(the "DRT")]" for the management, operation, and financial support of the Alamo complex." *Id.* § 31.453(a). You

explain the personnel of the Alamo complex are employees of the DRT, a contractor of the state of Texas, and are not state employees. You inform us Alamo personnel are hired and supervised by the DRT. You state their salaries are paid by the DRT from a DRT bank account. You also inform us the DRT establishes the salaries of Alamo personnel and handles all personnel matters involving the Alamo. You contend the salaries of Alamo personnel are "of no legitimate concern to the public." You also assert "[t]he release of this information would be highly objectionable to a reasonable person[.]" Based on your representations, we conclude the submitted salaries of Alamo personnel are personal financial information protected by common-law privacy. See ORD 373 at 3, quoting *Indus. Found.*, 540 S.W.2d at 685 ("In general . . . the public will have no[] legitimate interest in . . . highly private facts about private citizens."). Therefore, the GLO must withhold the submitted salaries on that basis under section 552.101 of the Government Code. As you do not claim an exception to disclosure of the rest of the responsive information, the remaining 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,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/bhf

Ref: ID# 468128

Enc: Submitted documents

c: Requestor  
(w/o enclosures)