



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 3, 2013

Ms. Andrea D. Russell
Counsel for the City of Southlake
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2013-11363

Dear Ms. Russell:

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# 492190.

The City of Southlake (the "city"), which you represent, received a request for an accounting of: (1) all uncashed checks/warrants for six months or more as of the date of the request; (2) tax overpayments which have been refundable for six months or more as of the date of the request; and (3) any unclaimed funds which have not been escheated to the state. You state the city will release some of the requested information to the requestor. You also state the city will redact social security numbers under section 552.147 of the Government Code, information subject to section 552.117 of the Government Code as permitted by section 552.024(c) of the Government Code, and information pursuant to Open Records Decision 684 (2009).¹ You claim the submitted information is excepted from disclosure

¹We note 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. *See* Gov't Code § 552.147(b). Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. *See* Gov't Code § 552.024(c)(2). Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold specific categories of information without the necessity of requesting an attorney general decision.

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” and encompasses information made confidential by statute. Gov’t Code § 552.101. Section 552.101 encompasses sections 74.104 and 76.104 of the Property Code.² Title 6 of the Property Code pertains to unclaimed property. Several provisions of Title 6 govern the conditions under which different types of property are presumed to be abandoned by the owner of the property. *See, e.g.*, Prop. Code §§ 72.101 (personal property), 73.101 (property held by financial institution), 75.101 (mineral proceeds, and owner’s underlying right to receive mineral proceeds). Under chapter 74 of the Property Code, a holder of property presumed abandoned under chapter 72, 73, or 75 of the Property Code, or under chapter 154 of the Finance Code, must file a report of the property with the Comptroller of Public Accounts (the “comptroller”). *See id.* § 74.101. Under section 76.101 of the Property Code, a municipality holding property that is presumed abandoned and is subject to chapter 76 must file a report of the property with the treasurer of the municipality. *See id.* § 76.101.

The public availability of the property reports required under section 74.101 is governed by sections 74.104 and 76.104 of the Property Code. Section 74.104 provides:

- (a) Except as provided by Section 74.201, 74.203, or 74.307, a property report filed with the comptroller under Section 74.101 is confidential until the second anniversary of the date the report is filed.
- (b) The social security number of an owner that is provided to the comptroller is confidential.

Id. § 74.104(a), (b). Section 76.104 of the Property Code applies to property held by a school district, municipality, or county and provides the following:

- (a) Except as provided by this chapter, a property report filed with the treasurer of the holder is confidential until the second anniversary of the date the report is filed.
- (b) Notwithstanding other law, the social security number of an owner that is reported to the treasurer of the holder is confidential.

²Chapter 76 of the Property Code applies to property held by a school district, municipality, or county that is presumed abandoned under chapter 72 or chapter 75 and is valued at \$100 or less. *See Prop. Code § 76.001.* Chapter 74 of the Property Code does not apply to property that is subject to chapter 76 of the Property Code. *See Prop. Code § 74.001.*

Id. § 76.104(a), (b). You argue the information in Exhibits B-1 and B-2 consists of property reports made confidential by the Property Code. We understand the property report in Exhibit B-1 was filed with the comptroller after October 2012. The second anniversary of the filing dates had not passed as of the date the request for information was received. Thus, we find section 74.104 of the Property Code is applicable to the information in Exhibit B-1. Accordingly, the city must withhold the information in Exhibit B-1 under section 552.101 of the Government Code on that basis. However, you state the information in Exhibit B-2 will be filed with the comptroller in June 2013. Accordingly, as of the date the request for information was received, the information in Exhibit B-2 had not been filed with the comptroller. Thus, we conclude section 74.104 and section 76.104 do not apply to the information submitted in Exhibit B-2. Accordingly, the information in Exhibit B-2 may not be withheld under section 552.101 in conjunction with section 74.104 or section 76.104 of the Property Code. As you raise no further exceptions to disclosure, the information in Exhibit B-2 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/dls

Ref: ID# 492190

Enc. Submitted documents

c: Requestor
(w/o enclosures)