



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 20, 2013

Ms. Margo M. Kaiser
Staff Attorney
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2013-22291

Dear Ms. Kaiser:

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# 509905 (TWC Tracking No. 131004-005).

The Texas Workforce Commission (the "commission") received a request for ten categories of information pertaining to conciliation agreements involving the Austin Tenants' Council over a specified period of time. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 3616 of title 42 of the United States Code authorizes the U.S. Department of Housing and Urban Development ("HUD") to utilize the services of state and local fair housing agencies to assist in meeting its statutory mandate to enforce laws prohibiting discrimination. *See* 42 U.S.C. § 3616. You state, pursuant to this authorization, the commission's Civil Rights Division ("CRD") is currently operating under a cooperative agreement with HUD in the investigation and resolution of complaints of housing

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

discrimination. Section 301.036 of the Property Code details that the CRD shall receive, investigate, seek to conciliate, and act on complaints alleging violations of the Texas Fair Housing Act. *See* Prop. Code § 301.036. Then, upon the filing of a complaint, both federal and state law mirror each other in language and encourage conciliation to the extent feasible. *See* 42 U.S.C. § 3610(b) (providing that during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal the commission shall engage in conciliation, to the extent feasible); Prop. Code § 301.085 (providing that the commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the commission, to the extent feasible, engage in conciliation with respect to the complaint).

You state the submitted information relates to discrimination complaints filed with the commission under its cooperative agreement. Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 of the Government Code encompasses both federal and state law. You claim the submitted information is confidential under section 3610 of title 42 of the United States Code, section 103.330 of title 24 of the Code of Federal Regulations, and section 301.085 of the Property Code. *See* 42 U.S.C. § 3610; 24 C.F.R. § 103.330; Prop. Code § 301.085. Section 3610 of title 42 of the United States Code provides in pertinent part:

(b) Investigative report and conciliation

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary [of Housing and Urban Development] determines that disclosure is not required to further the purposes of this chapter.

42 U.S.C. § 3610(b)(4). Part 103 of title 24 of the Code of Federal Regulations applies to complaints alleging discriminatory housing practices because of race, color, religion, sex or national origin, and complaints alleging discriminatory housing practices on account of handicap or familial status occurring on or after March 12, 1989. 24 C.F.R. § 103.1(b). As previously mentioned, upon the filing of a complaint, both federal and state law mirror each other in language and encourage conciliation to the extent feasible. Section 103.330(b) provides the following:

(b) Conciliation agreements shall be made public, unless the aggrieved person and respondent request nondisclosure and the Assistant Secretary determines that disclosure is not required to further the purposes of the Fair Housing Act. Notwithstanding a determination that disclosure of a conciliation agreement is not required, the Assistant Secretary may publish tabulated descriptions of the results of all conciliation efforts.

Id. § 103.330(b); *see id.* § 103.9 (defining conciliation for purposes of part 103). Section 301.085 of the Property Code provides in pertinent part:

(d) A conciliation agreement is public information unless:

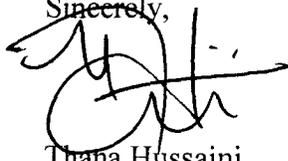
- (1) the complainant and respondent agree that it is not; and
- (2) the commission determines that disclosure is not necessary to further the purposes of this chapter.

Prop. Code § 301.085(d). The submitted information consists of signed conciliation agreements. In this instance, you have not indicated nor submitted any records demonstrating that either of the two conditions necessary to withhold a conciliation agreement has been met. Therefore, the conciliation agreements must be made public. As you raise no other exceptions against disclosure, the requested 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.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,



Thana Hussaini
Assistant Attorney General
Open Records Division

TH/dls

Ref: ID# 509905

Enc. Submitted documents

c: Requestor
(w/o enclosures)

