



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 29, 1994

Mr. Charles E. Griffith, III  
Deputy City Attorney  
City of Austin  
114 West 7th Street  
P.O. Box 1088  
Austin, Texas 78767-8828

OR94-300

Dear Mr. Griffith:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26273.

The City of Austin (the "city") received two open records requests for a list<sup>1</sup> of the following information with regard to city employees who enrolled their "domestic partners" for city benefits: each employee's name; work telephone number; department; title; salary; home address;<sup>2</sup> and number, name, and nature of relationship of the employee's dependents. You inquire whether the fact that particular city employees have requested city benefits for their domestic partners is protected by a right of privacy.<sup>3</sup>

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<sup>1</sup>You have not submitted to this office for review a compiled list of the requested information, but rather a blank "City of Austin Benefits Enrollment Form" which, if completed by a city employee, would contain some of the requested information. Because the requests encompass only portions of the enrollment form, we address in this ruling only whether the city must release the specifically requested items.

<sup>2</sup>Although you do not raise in your brief to this office section 552.117 of the Government Code, we assume that the city intends to withhold the home address of all city employees who have elected to keep this information confidential.

<sup>3</sup>You also inquire:

If a City employee has disclosed to his or her employer information about a intimate personal relationship or activity (i.e., that he or she lives in the same household and shares the common resources of life in a close, personal, intimate relationship with another person who is not a "spouse" under Texas law), is the employer required by law to make public that disclosure?

You explain that in order to qualify for domestic partner benefits, employees were required to file a "Declaration of Domestic Partnership," a public record, with the Travis County Clerk. No privacy interest exists for information contained in public records. *Star-Telegram v. Walker*, 836 S.W.2d 54 (Tex. 1992). Thus, the fact that a particular city employee has identified an individual as being his or her domestic partner for the purpose of obtaining city benefits for the partner is not protected by privacy where the two "partners" have made the appropriate declaration with the county clerk. The city therefore must release this information. For similar reasons, the city must also release the names of the employees' domestic partners listed as "dependents."

Citing Open Records Decision No. 600 (1992) as authority, you contend that the name and "nature of relationship" of dependents listed for city benefits is protected by common-law privacy. Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

In Open Records Decision No. 600 at 10, this office held that the legitimate public interest in dependents' enrollment in government funded insurance programs

extends to information showing that the employee has enrolled persons in addition to himself in the ... insurance plan... [A]dditional information about the persons who benefit from these coverages is ... excepted from disclosure by a common-law right of privacy.

We do not believe that the above quoted language implies that the mere identities of an employee's dependents and the nature of their relationship with the employee implicates the privacy rights of either the employee or the dependents, especially where that information cannot be connected with other more intimate information, such as a dependent being identified as the beneficiary of a life insurance policy. This information, standing alone, is not protected by common-law privacy and therefore also must be released.<sup>4</sup>

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(Footnote continued)

Because the current open records requests raise this issue only with regard to city employees who qualified for domestic partner benefits, we do not address here whether employees who have otherwise disclosed to their employer the existence of such a relationship, but did not enroll for domestic partner benefits, possess a privacy interest in this type of information.

<sup>4</sup>Because you have not argued that any of the other requested information is excepted from required public disclosure, we assume the city intends to release this information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Open Government Section

SG/RWP/rho

Ref.: ID# 26273

Enclosures: Submitted documents

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