



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 24, 1995

Ms. Suzanne E. Giesecke
Assistant General Counsel
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

OR95-662

Dear Ms. Giesecke:

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# 30448.

The Texas Department of Agriculture (the "department") received a request for a copy of the report concerning a closed investigation of a pesticide-related complaint. You contend that some of the requested information is excepted from required public disclosure under section 552.101 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." For information to be protected from public disclosure under the common-law right of privacy as section 552.101 incorporates it, the information must meet the criteria set out in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The *Industrial Foundation* court stated that

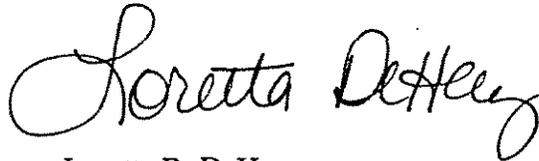
information ... is excepted from mandatory disclosure under Section 3(a)(1) as information deemed confidential by law if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public.

540 S.W.2d at 685; Open Records Decision No. 142 (1976) at 4 (construing former V.T.C.S. article 6252-17a, section 3(a)(1)). In *Industrial Foundation*, the Texas Supreme Court considered intimate and embarrassing information such as that relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683.

We have reviewed the documents submitted for our consideration. The documents contain symptoms of illness alleged to be caused by exposure to pesticides. The symptoms noted are not highly intimate or embarrassing, and we believe there is a legitimate public interest in their disclosure. See Open Records Decision No. 370 (1983) (*Industrial Foundation* specifically rejected claim that *all* medical information may be withheld by common-law privacy). Therefore, you must release the information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LMM/rho

Ref.: ID# 30448

Enclosures: Submitted documents

cc: Mr. Raymond Gill
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(w/o enclosures)