



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 11, 1997

Mr. Frank René López  
Lewis and Collins, P.C.  
1220 Montana Avenue  
El Paso, Texas 79902

OR97-0790

Dear Mr. López:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 106179.

Ysleta Independent School District (the "district"), which you represent, received a request for the last three months of payroll reports on Beltran and Garick electrical jobs that are currently under construction. You claim that the names, social security numbers, and home addresses within these payroll records are excepted from disclosure under section 552.117 of the Government Code. You have submitted a sample of the requested information.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.117 of the Government Code excepts from public disclosure information relating to the home address, home telephone number, and social security number of current or former government employees or officials and peace officers, as well as information revealing whether those employees, officials, or officers have family members. This section, by its terms, does not apply to anyone but current or former government employees, officials, and peace officers. As you admit that these employees of the subcontractor are not employed by the district or any other governmental body, the district may not withhold the requested information under section 552.117 of the Government Code.

Further, privacy does not protect the names, home addresses, and social security numbers from required public disclosure. 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, 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 court stated that

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<sup>1</sup>In reaching our conclusion here, we 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.

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 statutory predecessor to Gov't Code § 552.101). This office has previously concluded that home addresses are not "intimate" information and is therefore not protected as to private citizens. Open Records Decision Nos. 478 (1987), 455 (1987), 254 (1980).

We note that the social security numbers in the payroll records may be *confidential* under federal law. A social security number is excepted from required public disclosure under section 552.101 of the act in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. See Open Records Decision No. 622 (1994). Based on the information you have provided, we are unable to determine whether the social security numbers are confidential under this federal statute. We note, however, that section 552.352 of the Open Records Act imposes criminal penalties for the release of confidential 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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/ glg

Ref.: ID# 106179

Enclosures: Submitted documents

cc: Mr. Ricardo Santoyo  
International Brotherhood of Electrical Workers  
6967 Commerce  
El Paso, Texas 79915  
(w/o enclosures)