



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 16, 1997

Mr. Richard D. Monroe  
Deputy General Counsel  
Texas Department of Transportation  
Dewitt C. Greer State Highway Bldg.  
125 E. 11th Street  
Austin, Texas 78701-2483

OR97-1133

Dear Mr. Monroe:

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# 34530.

The Texas Department of Transportation (the "department") received an open records request for "the telephone bills and records for the Texas Department of Transportation, Consumer Affairs Section for the period starting February 1, 1995 to the present." You first contend that the portions of the requested records that consist of private consumers' telephone numbers are excepted from required public disclosure pursuant to common-law privacy, as incorporated into section 552.101 of the Government Code.

Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. of the South 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.

This office has previously determined that an individual's home address normally may not be withheld from the public on privacy grounds. Open Records Decision No. 169

(1977) at 6.<sup>1</sup> Similarly, we do not believe that the telephone numbers contained in the requested billing statements consist of “highly intimate or embarrassing” information that would implicate a person’s privacy interests. The telephone numbers may not be withheld on privacy grounds.

You also contend that the telephone numbers contained in the billing statements should be withheld from the public in accordance with section 6.07(l) of V.T.C.S. article 4413(36). Section 6.07 establishes administrative procedures regarding the resolution of citizen complaints filed with the Motor Vehicle Board of the Texas Transportation Commission in reference to the so-called “lemon law.” Section 6.07(l) provides that “[i]nformation filed with the Board under this section is not a public record and is not subject to release under the open records law, Chapter 552, Government Code, *until the complaint is finally resolved by order of the Board.*” (Emphasis added.)

We first observe that section 6.07(l) pertains solely to information relating to complaints filed with the board in connection with warranty performance obligations. Much of the information submitted to this office for review does not pertain to such complaints and thus may not be withheld pursuant to this confidentiality provision. *See* Open Records Decision No. 478 (1987) (as a general rule, statutory confidentiality requires express language making particular information confidential).

Even if we assume that some of the information might be subject to section 6.07, we note that such information would cease to be confidential once the complaint is finally resolved by the board. You have not identified any of the telephone numbers as pertaining to active complaints currently before the board. *See also* V.T.C.S. art. 4413(36), § 6.07(e)(6) (if proposal for decision not issued within 150 days of filing of complaint, executive director must inform complainant in writing of right to file civil action). We therefore have no basis on which to conclude that any of the telephone numbers before us are confidential under section 6.07(l). Absent such a demonstration, we conclude that the billing statements must be released in their entirety.

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

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<sup>1</sup>Such information may be withheld, however, only upon a demonstration of “truly exceptional circumstances such as, for instance, an imminent threat of physical danger.” Open Records Decision No. 169 (1977) at 6.

under the facts presented to us in this request and should not be relied upon as a previous determination 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 Records Division

LRD/RWP/rho

Ref.: ID# 34530

Enclosures: Submitted documents

cc: Mr. Mark Allen Land  
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(w/o enclosures)

