



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 7, 1998

Ms. M. Bernadette McKay
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR98-1161

Dear Ms. McKay:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115502.

The City of San Antonio (the "city") received a request for information concerning outstanding cash sureties and cash security deposits. You state that the city will release to the requestor copies of portions of the requested information. However, you assert that certain reports pertaining to property that is presumed to be abandoned is excepted from required public disclosure based on section 552.101 of the Government Code in conjunction with two Property Code provisions. You have submitted a representative sample of the information the city seeks to withhold from disclosure.

Section 552.101 excepts from disclosure information that is made confidential by law, including information that is made confidential by statute. Section 74.104 of the Property Code reads as follows:

- (a) Except as provided by Section 74.201, 74.203, or 74.307, a property report filed with the comptroller under Section 74.101 is confidential until the second anniversary of the date the report is filed.
- (b) The social security number of an owner that is provided to the comptroller is confidential.

Section 74.101 of the Property Code requires a holder of property that is presumed abandoned under chapter 72, 73, or 75 of the Property Code, or under V.T.C.S. article 548b to file a report with the comptroller. To the extent the requested information consists of a report filed pursuant to section 74.101, we believe the report is deemed confidential by section 74.104 for the statutory two year period from the date the report was filed.¹ Although the submitted representative sample contains no social security numbers, we note that the confidentiality afforded owners' social security numbers contains no time limitation. Thus, the city must not publicly release the social security numbers even after the passage of the two-year time limit. Property Code § 74.104(b).

You also raise section 76.104 of the Property Code, a confidentiality provision that applies to reports concerning certain property subject to chapter 76 of the Property Code. Chapter 76 of the Property Code applies when the holder of the property presumed abandoned is a municipality or county and the property is presumed abandoned under chapter 72 or 75 of the Property Code and is valued at \$100 or less. Section 76.101 requires the holder to file a property report with the holder's treasurer. *See id.* § 76.002(1) (concerning treasurer of holder). Section 76.104 reads as follows:

(a) Except as provided by this chapter, a property report filed with the treasurer of the holder is confidential until the second anniversary of the date the report is file.

(b) Notwithstanding other law, the social security number of an owner that is reported to the treasurer of the holder is confidential

To the extent the requested information consists of a report filed pursuant to section 76.101, we believe the report is deemed confidential by section 76.104 for the statutory two year period from the date the report was filed.² As with section 74.104, we note that the confidentiality section 76.104 affords owners' social security numbers contains no time limitation. Thus, the city must not publicly release the social security numbers even after the passage of the two-year time limit. Property Code § 76.104(b).

¹Sections 72.201 and 74.203, which require notice to each reported owner of property presumed abandoned, and section 74.307, which requires the comptroller to make publicly available an alphabetical list of the names and last known addresses of owners listed in the section 74.101 reports, are not applicable here.

²We do not believe the notice provisions in chapter 76 are implicated here. *See* Property Code subch.C.

We are resolving this matter with this 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 may 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,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref: ID# 115502

Enclosure: Submitted document

cc: Mr. Jerald E. Jacobs
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(w/o enclosure)