



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 16, 1998

Ms. Marva M. Gay  
Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002-1700

OR98-1468

Dear Ms. Gay:

On behalf of the Harris County Tax Assessor-Collector (the "county"), you ask whether the social security numbers contained in the county's Voter Master File are excepted from required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116561.

Section 552.301 of the Government Code provides that a governmental body must ask the attorney general for a decision as to whether requested documents must be disclosed not later than the tenth business day after the date of receiving the written request. The county received the requestor's written request for information on December 3, 1997. You did not request a decision from this office until April 24, 1998, more than ten business days after the requestor's written request. Therefore, we conclude that the county failed to meet its ten-day deadline for requesting an opinion from this office.

When a governmental body fails to request a decision within ten business days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publ'g Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See id.* Normally, a compelling interest is that some other source of law makes the information confidential or that third party interests are at stake. Open Records Decision No. 150 (1977) at 2.

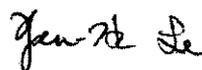
You contend that the social security numbers are excepted from public disclosure under section 552.101 of the Government Code in conjunction with section 13.004 of the Election Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 13.004 provides as follows:

- (a) The registrar may not transcribe copy, or otherwise record a telephone number furnished on a registration application.
- (b) The registrar may transcribe, copy, or otherwise record a social security number furnished on a registration application only in maintaining the accuracy of the registration records.

Elec. Code § 13.004. You argue that because the request does not involve maintaining the accuracy of the registration records, the registrar is prohibited from copying the social security numbers in response to the request for information. We agree. However, we note that section 13.004 does not prohibit access to and inspection of the social security numbers. *Cf.* Election Law Opinion No. JWF-24 (1984) (although voter registrar is prohibited from transcribing, copying, or recording any telephone numbers furnished on a voter registration application, persons inspecting the files were not subject to this prohibition). Nevertheless, federal law may prohibit disclosure of the social security numbers. A social security number is excepted from required public disclosure under section 552.101 of the act in conjunction with 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). Section 552.352 of the Government Code 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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/rho

Ref.: ID# 116561

cc: Mr. Steven C. Hayden  
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