



June 22, 1999

Ms. Cynthia W. Canfield
General Counsel
Texas Board of Architectural Examiners
P.O. Box 12337
Austin, Texas 78711-2337

OR99-1723

Dear Ms. Canfield

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125109.

The Texas Board of Architectural Examiners (the "board") received a request from a representative of the Internal Revenue Service ("IRS") for "a database of all architects licensed to practice in Texas," including the name, address, social security number, business name and address, telephone number and employer identification number. You submitted to this office for review a representative sample of the requested information, and claim that certain information is protected from public disclosure pursuant to 42 U.S.C. § 405(c)(2)(C)(viii) in conjunction with section 552.101 of the Government Code.¹ We have considered the exception and arguments you have made and have reviewed the submitted records.

Section 552.101 excepts from required public disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. The board contends that the requested social security numbers are confidential. Open Records Decision No. 622 (1994) (federal law provides for confidentiality of social security numbers obtained or maintained by governmental body pursuant to any provision of law enacted on or after October 1, 1990). The board collects social security numbers pursuant to section 231.302 of the Family Code, which was effective April 20, 1995. You raise section 552.101 of the

¹We note that as you have not raised any exceptions for the remaining requested information, the information is presumed public. 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) (where requested documents are numerous and repetitive, governmental body should submit a representative sample; but if each record contains substantially different information, all must be submitted). 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.

Government Code in conjunction with federal law providing for the confidentiality of social security numbers. In addition, the Texas Legislature recently made confidential social security numbers provided to a licensing agency by the holders of occupational licenses from that agency. Effective May 29, 1999,

The social security number of an applicant for or holder of a license, certificate of registration, or other legal authorization issued by a licensing agency to practice in a specified occupation or profession that is provided to the licensing agency is confidential and is not subject to disclosure under the open records law.

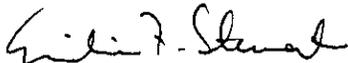
Act of May 17, 1999, 76th Leg., H.B. 692, §1.

The social security numbers requested by the IRS are not available under Chapter 552 of the Government Code.

However, in this instance, the requestor, an IRS representative, contends that release of the requested information is governed by "Section 7602 of the Internal Revenue Code." Title 26 United States Code section 7602 gives the IRS a separate right of access. We note that pursuant to section 7602 of title 26 of the United States Code, the Secretary of the Treasury is authorized to "examine any books, papers, or other data which may be relevant or material" to a particular tax inquiry . . . "[for] the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws." *See* 26 U.S.C. § 7602 et al. Under the supremacy clause of the United States Constitution, federal law prevails over state law. U.S. Const. Art. I, §8, cl. 18. Therefore, you must release the information at issue to the IRS.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Emilie F. Stewart
Assistant Attorney General
Open Records Division

EFS\nc

Ref: ID# 125109

encl: Submitted documents

cc: Claudette Hulce
FedState Program Manager
Internal Revenue Service
300 E. 8th Street
Austin, Texas 78701
(w/o enclosures)