



December 20, 1999

Ms. Katherine Minter Cary
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
Post Office Box 12548
Austin, Texas 78711-2548

OR99-3669

Dear Ms. Cary:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130372.

The Office of the Attorney General (the "OAG") received a request for certain documents contained within the case file of *State of Texas, et.al. v. Bennie Oliver Bonnet and Wanda Gail Bonnet*. You state that most of the responsive documents have been released to the requestor. You claim, however, that one document, Exhibit C, is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and have reviewed the document at issue.

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 common-law privacy and excepts from disclosure private facts about an individual. *Id.* Therefore, information must be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992).

Prior decisions of this office have found that financial information relating only to an individual ordinarily satisfies the first requirement of the test for common-law privacy, but that there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. Open Records Decision Nos. 600 (1992),

545 (1990), 373 (1983). We have reviewed the submitted document and agree that the information at issue does not relate to a financial transaction between an individual and a governmental body. Therefore, the OAG must withhold Exhibit C from disclosure pursuant to section 552.101 in conjunction with the common-law right of privacy.¹

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

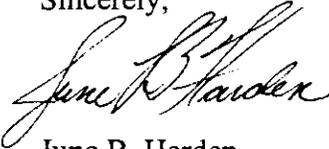
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

¹Because we are able to make a determination under section 552.101 we need not address your additional arguments against disclosure except to note that information is not confidential under Public Information Act simply because the party submitting it anticipates or requests that it be kept confidential. Open Records Decision No. 479 (1987). Additionally, a governmental body's promise to keep information confidential is not a basis for excepting information from required public disclosure under the Public Information Act unless the governmental body has specific authority to do so by statute. Open Records Decision Nos. 514 (1988), 479 (1987), 444 (1986).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script, appearing to read "June B. Harden".

June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 130372

Encl. Submitted documents

cc: Mr. George Churchwell
Post Office Box 421205
Del Rio, Texas 78848-1205
(w/o enclosures)