



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 16, 2007

Ms. Noelle C. Letteri
Legal Services Division
Texas General Land Office
P. O. Box 12873
Austin, Texas 78711-2873

OR2007-02001

Dear Ms. Letteri:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 271637.

The Texas Veterans Land Board (the "board") received a request for an e-mail list for the state of Texas and the mailing list for the counties within a 100 mile radius of Dallas-Forth Worth. You state that some of the requested information has been released, but claim that the remaining veterans' names and addresses are excepted from disclosure under sections 552.101 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, part of which is a representative sample.¹ Section 552.101 of the Government Code 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 5701 of title 38 of the United States Code states in pertinent part:

¹We 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). 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.

(a) All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Secretary and the names and addresses of present or former members of the Armed Forces, and their dependents, in the possession of the [Department of Veterans Affairs] shall be confidential and privileged, and no disclosure thereof shall be made except as provided in this section.

...

(f) The Secretary may . . . release the name or address, or both, of any present or former member of the Armed Forces, or a dependent of a present or former member of the Armed Forces, (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under this title...if a qualified representative of such agency or instrumentality has made a written request that such name or address be provided for a purpose authorized by law. Any organization or member thereof or other person who, knowing that the use of any name or address released by the Secretary pursuant to the preceding sentence is limited to the purpose specified in such sentence, willfully uses such name or address for a purpose other than those so specified, shall be guilty of a misdemeanor and be fined not more than \$5,000 in the case of a first offense and not more than \$20,000 in the case of any subsequent offense.

38 U.S.C. § 5701(a), (f); *see also* 38 C.F.R. §§ 1.500-1.1527.

The board states that some of the submitted information was obtained from the United States Department of Veterans Affairs (“VA”) and the Army National Guard. The Army National Guard is included in the definition of “Armed Forces” for purposes of section 5701. *See* 38 U.S.C. § 101(10) (Armed Forces include reserve components), (27)(F) (reserve components include Army National Guard). You have submitted a letter from the VA explaining that the VA is providing the board with the names and addresses of veterans from the VA’s Compensation and Pension System, Education, and Veterans Assistance Discharge System files. The letter also states that the VA is releasing this information to the board “for the purpose of advising and assisting VA beneficiaries in obtaining title 38 benefits and informing veterans of benefits available from the State of Texas” and that “[n]o other use is authorized.” *See* 38 U.S.C. § 5701(f); *see also* 38 C.F.R. § 1.501 (VA secretary may release claim information if release would serve a useful purpose). The board explains that it uses the information from the VA to “inform Texas veterans specifically about the State of Texas Veterans Homes Program,” which provides health care to qualified veterans. After review of your representations and the submitted documents, we agree that the veterans’ names and addresses obtained from the VA and the Army National Guard are confidential under section 5701 of title 38 of the United States Code, and the board must withhold this information under section 552.101 of the Government Code.

Section 552.101 encompasses section 11.030 of the Texas Parks and Wildlife Code. Section 11.030 provides in pertinent part:

(a) The name and address and a telephone, social security, driver's license, bank account, credit card, or charge card number of a person who purchases customer products, licenses, or services from the department may not be disclosed except as authorized under this section or Section 12.0251.

(b) Chapter 552, Government Code, does not apply to customer information described by Subsection (a).

(c) The commission by rule shall adopt policies relating to:

(1) the release of the customer information [.]

Parks & Wild. Code § 11.030(a), (b), (c). The board explains that the Texas Department of Parks and Wildlife released customer information that is confidential under section 11.030 to the board. *See* 31 T.A.C. § 51.304(a)(2) (department may disclose confidential customer information to another agency that agrees to maintain confidentiality of the information). Because section 11.030 expressly excludes customer information from the provisions of the Act, we do not address the board's claim that section 552.101 excepts this information from disclosure.

Section 552.101 also encompasses section 730.004 of the Transportation Code, which provides that "an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record." Transp. Code § 730.004. "Personal information" includes a person's name and address but not the zip code. *Id.* § 730.003(6). The Texas Department of Transportation is an "agency" for purposes of chapter 730. *See id.* § 730.003(1) ("agency" is state agency that compiles or maintains motor vehicle records). You inform us that, pursuant to section 730.007, the Texas Department of Transportation provided some of the submitted information to the board for use in carrying out its governmental functions. *See id.* § 730.007(a)(2)(A)(i) (personal information may be disclosed to government agency in carrying out its functions). An agency authorized to receive personal information may not redisclose the personal information and to do so is a misdemeanor offense. *Id.* § 730.013(a), (d). Based on the board's representations, we agree the board must withhold the veterans' names and addresses but not the zip codes obtained from the Texas Department of Transportation pursuant to sections 730.004 and 730.013 of the Transportation Code in conjunction with section 552.101.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). The board

informs us that none of the submitted e-mails are subject to subsection (c). We understand that the relevant members of the public have not consented to the release of the e-mail addresses. Therefore, the board must withhold the submitted e-mail addresses under section 552.137.

In summary, the board must withhold the veterans' names and addresses obtained from the VA and the Army National Guard under federal law in conjunction with section 552.101 of the Government Code. The board must also withhold the veterans' names and addresses but not the zip codes obtained from the Texas Department of Transportation pursuant to sections 730.004 and 730.013 in conjunction with section 552.101. The board must withhold the submitted e-mail addresses pursuant to section 552.137. The remaining information that is subject to the Act must be released.

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).

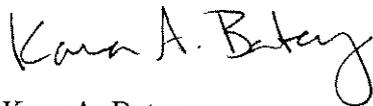
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

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,



Kara A. Batey
Assistant Attorney General
Open Records Division

KAB/kr1

Ref: ID# 271637

Enc. Submitted documents

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