



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 30, 2007

Mr. Kevin Hamby
General Counsel
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711

OR2007-06753

Dear Mr. Hamby:

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# 279933.

The Texas Department of Housing and Community Affairs (the "department") received a request for a "report of all the [Dallas County] participants under the Texas First Homebuyer Program that includes their addresses, amount of the down payment assistance, and action dates." You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 2306.039 of the Government Code provides:

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) Except as provided by Subsection (b), the department and the Texas State Affordable Housing Corporation are subject to Chapters 551 and 552.

(b) This section does not apply to the personal financial information submitted by an individual or family for a loan, grant or other housing assistance under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department, except that the department and the corporation are permitted to disclose information about any applicant in a form that does not reveal the identity of the individual or family for purposes of determining eligibility for programs and in preparing reports required under this chapter.

You assert that section 2306.039 restricts the department from disclosing information about the program participants in a form that reveals the identity of the individual or family for purposes not connected with determination of eligibility for programs and the preparing of reports required under chapter 2306. However, section 2306.039(b) actually applies to “*personal financial information* submitted by the individual or family for a loan, grant, or other housing assistance under a program administered by the department.” Gov’t Code § 2306.039(b) (emphasis added). The responsive information that you have submitted does not include such information. Therefore, the requested information cannot be considered confidential by law pursuant to section 552.101 in conjunction with section 2306.039 of the Government Code. Accordingly, the department must release all responsive information.

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,



Aries Solis
Assistant Attorney General
Open Records Division

AS/eeg

Ref: ID# 279933

Enc. Submitted documents

c: Dr. Wenhua Di, Ph.D.
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(w/o enclosures)