



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 24, 2008

Ms. Sara Shiplet Waitt  
Senior Associate Commissioner  
Texas Department of Insurance  
Legal Services Division  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2008-03741

Dear Ms. Waitt:

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# 305565.

The Texas Department of Insurance (the "department") received a request for the most recent supplemental compensation exhibits for Texas Mutual Insurance Company. You claim that a portion of 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.

Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). This office has determined that "all financial information relating to an individual - including sources of income, salary, mortgage payments, assets, medical and utility bills, social security and veterans benefits, retirement and state assistance benefits, and credit history - ordinarily satisfies the first requirement of common-law privacy, in that it

constitutes highly intimate or embarrassing facts about the individual, such that its public disclosure would be highly objectionable to a person of ordinary sensibilities.” See Open Records Decision No. 373 at 4 (1983). Thus, we find that the salary and compensation information here meets the first prong of the common-law test for privacy.

The second prong of the *Industrial Foundation* test requires the information in question to be not of legitimate concern to the public. In general, we have found the kinds of financial information not excepted from public disclosure by common-law privacy to be those regarding the receipt of governmental funds, such as a public employee’s participation in an insurance program funded wholly or partially by his or her employer, or debts owed to governmental entities. Open Records Decision Nos. 600 (1992), 480 (1987), 385 (1983). In addition, this office has held that, generally, the public does not have a legitimate interest in a private individual’s financial information including the individual’s salary and other sources of income. See Open Records Decision Nos. 523 at 3-4 (1989), 373 at 3 (1983). Information concerning the salary and compensation of Texas Mutual Insurance Company officers and directors relates solely to a private company’s employment relationship with its employees and does not involve public employees, a governmental entity, or the receipt or expenditure of public funds. In this case, no facts have been presented, nor are any apparent, which would establish a legitimate public interest in the salary and compensation information at issue. See *Industrial Foundation*, 540 S.W.2d at 685. Thus, the information you have marked is protected by common-law privacy and must be withheld under section 552.101 of the Government Code. The remaining information 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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,



Jordan Johnson  
Assistant Attorney General  
Open Records Division

JJ/jb

Ref: ID# 305565

Enc. Submitted documents

c: Mr. Mick Thompson  
Principal  
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(w/o enclosures)