



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 2, 2009

Mr. Scott Gibson
General Counsel
Texas Board of Architectural Examiners
P.O. Box 12337
Austin, Texas 78711

OR2009-13909

Dear Mr. Gibson:

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# 357224.

The Texas Board of Architectural Examiners (the "board") received a request for all records related to a named architect. You state that the board has provided the requestor with some of the requested information. You indicate that you have redacted a social security number from the released documents.¹ You claim that a portion of the submitted 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.

Initially, we note that in your letter to the requestor, you inform the requestor that you have redacted an e-mail address from the released information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. *See* Gov't Code §§ 552.301(a), .301(e)(1)(D). You do not assert, nor does our review of our records indicate, that the board is authorized

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

to redact e-mail addresses without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). In this instance, because you submitted for our review an unredacted copy of the documents you have released to the requestor, we are able to ascertain the nature of the information you state you have redacted. Therefore, we will address your claim that the submitted information contains an e-mail address that is excepted under section 552.137 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be met. *Id.* at 681-87. The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Furthermore, a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U. S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). This office has found that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. Upon review, we agree that the information you seek to withhold, which we have marked, is protected by common-law privacy, and must be withheld under section 552.101 of the Government Code.

Section 552.137 of the Government Code states that "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its public disclosure. Gov't Code § 552.137(a)-(b). Section 552.137 is not applicable to an e-mail address that a governmental entity maintains for one of its officials or employees. We note that all of the e-mail addresses in the submitted information, including the information you have released to the requestor, belong to employees of a governmental body. Thus, the board may not withhold any of the submitted information under section 552.137.

In summary, the board must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released to the requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 357224

Enc. Submitted documents

c: Requestor
(w/o enclosures)