



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 18, 2009

Ms. Cynthia de Roch
General Counsel
Texas Residential Construction Commission
P.O. Box 13509
Austin, Texas 78711-3509

OR2009-18006

Dear Ms. De Roch:

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# 364856 (TRC PIR # 3064).

The Texas Residential Construction Commission (the "commission") received a request for the addresses of all homes registered with the commission. You claim that 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 representative sample of information.¹ We have received and considered comments submitted by the requestor. See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note some of the submitted information is not responsive to the instant request as it does not constitute addresses. We have marked this non-responsive information. This ruling does not address the public availability of non-responsive information, and the commission is not required to release non-responsive information in response to this request. Accordingly, we will address your argument with regard to the responsive information.

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.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses information made confidential by other statutes. You claim section 409.003 of the Property Code for the submitted addresses, which provides in relevant part as follows:

(d) The commission shall make available to the public information about each complaint that resulted in disciplinary action by the commission.

(e) The commission may not disclose the address of any individual home registered with the commission when making information available to the public under this title, except as necessary to implement this title.

(f) Notwithstanding Subsections (d) and (e), the commission may not disclose the address of an individual home registered with the commission:

(1) on the commission's Internet website; or

(2) in connection with an open records request under Chapter 552, Government Code.

Act of June 20, 2003, 78th Leg., R.S., ch. 458, § 1.01, 2003 Tex. Gen. Laws 1708 (expired Sept. 1, 2009). You indicate that the addresses at issue are the addresses of individual homes registered with the commission. However, we note, and you acknowledge, that Title 16 of the Property Code, of which section 409.003 is a part, expired as of September 1, 2009. *See* Act of June 20, 2003, 78th Leg., R.S., ch. 458, § 1.01, 2003 Tex. Gen. Laws 1705 (expired Sept. 1, 2009). The commission received the present request on September 30, 2009, after the expiration of Title 16.² An expired statute no longer has any force or effect. Attorney General Opinions GA-0535 (2007); JM-754 (1987) (after statute establishing certificate of need program expired under the sunset law, there was no longer a requirement under Texas law that health facilities obtain a certificate of need).

However, you assert that section 409.003 of the Property Code should still be given effect based upon section 325.017(a) of the Government Code, which provides that "a state agency that is abolished in an odd-numbered year may continue in existence until September 1 of the following year to conclude its business. Unless the law provides otherwise, abolishment does not reduce or otherwise limit the powers and authority of the state agency during the concluding year." Gov't Code § 325.017(a). The commission was abolished on September 1, 2009, and pursuant to section 325.017(a), has until September 1, 2010 to

²We note that the request for information is contained in a letter stamped September 30, 2009, and you state the commission received the request for information "[o]n or about September 30, 2009."

conclude its business. *See Id.* § 325.017(b) (providing that any unobligated and unexpended appropriations of an abolished agency or advisory committee lapse on September 1 of the even-numbered year after abolishment).

We find that, in granting the commission the authority to conclude its business, section 325.017 of the Government Code does not by its terms make effective expired section 409.003 of the Property Code. *See generally* Open Records Decision No. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure). Accordingly, the expired section 409.003 no longer makes confidential the addresses of homes registered with the commission, and the submitted responsive information may not be withheld under section 552.101 of the Government Code on that basis. As you raise no further exceptions, the responsive 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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TRW/rl

Ref: ID# 364856

Enc. Submitted documents

cc: Requestor
(w/o enclosures)