



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 21, 2009

Ms. Paige H. Saenz
Assistant General Counsel
City of Austin Employees' Retirement System
418 East Highland Mall Boulevard
Austin, Texas 78752-3720

OR2009-18042

Dear Ms. Saenz:

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# 364954.

The City of Austin Employees' Retirement System (the "system") received a request for all mailing addresses of a specified person who was an alternate payee in the system. 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 information.

Section 552.101 of the Government Code protects from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential. You raise section 552.101 in conjunction with section 13 of article 6243n of Vernon's Texas Civil Statutes. You state the system was established under and is governed by article 6243n, which provides in part:

(a) Information contained in records that are in the custody of the retirement board or the system concerning an individual member, retiree, annuitant, beneficiary, or alternate payee is confidential under this section and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual or the individual's attorney, guardian, executor, administrator, conservator, or other person who the pension director determines is acting in the interest of the individual or the individual's estate;

(B) a spouse or former spouse of the individual if the pension director determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system;

(C) a governmental official or employee if the pension director determines that disclosure of the information requested is reasonably necessary to the performance of the duties of the official or employee;

(D) the individual's employer as defined in this Act; or

(E) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed pursuant to a subpoena and the pension director determines that the individual will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, beneficiary, or alternate payee of the retirement system.

V.T.C.S. art. 6243n, § 13(a)-(b). You state that the requested information concerns an alternate payee and is within the custody of the system. You further state that the requestor is not an individual who is entitled to the information under subsection (a)(1) as the purpose of the request is neither related to the alternate payee's estate or an interest in member accounts, benefits, or other amounts payable by the system. Thus, based on your representations and our review of the information in question, we conclude that the system must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 13 of article 6243n of Vernon's Texas Civil Statutes.

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,



Lauren J. Holmsley
Assistant Attorney General
Open Records Division

LJH/sdk

Ref: ID# 364954

Enc. Submitted documents

c: Requestor
(w/o enclosures)