



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

December 22, 2009

Mr. Gary Grief
Deputy Executive Director
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630

OR2009-18176

Dear Mr. Grief:

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# 366130.

The Texas Lottery Commission (the "commission") received a request for the claim form and names of members in the "Lucky 19 Investment Trust." You state that the commission has provided the requestor with some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also notified the trustee at issue, Plains Capital Bank, of this request for information and of its right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). Plains Capital Bank has submitted arguments to this office. We have considered the submitted arguments and reviewed the submitted information.

The commission asserts that the submitted information is public information because it was collected, assembled, or maintained in connection with the transaction of official business. *See* Gov't Code § 552.002. We agree that the submitted information is public information subject to the Act. Accordingly, this information must be released, unless it falls within the scope of an exception to disclosure. *See id.* §§ 552.002(a), .021.

The commission states that the “only exception to disclosure of information related to the claim process, or the prize winner, [is found in] section 466.022 of the [Government Code].” Section 466.022 of the Government Code provides in part:

(a) Except as otherwise provided by law, all commission records are subject to public inspection in accordance with Chapter 552.

(b) In addition to commission records excepted from disclosure under Chapter 552, the following information is confidential and is exempt from disclosure:

...

(3) the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information.

Id. § 466.022(a), (b)(3). In particular, the commission states that “only the street address and the telephone number of a prize winner are confidential.” *See id.* § 466.022(b)(3). We note, however, that section 466.022(b) provides that commission records are subject to the exceptions found in the Act. *See id.* § 466.022(b); *see also id.* § 466.022(a). We further note that section 552.101 of the Government Code is one of these exceptions.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses common-law privacy which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office has found that information that reflects an individual’s personal financial decisions and is not related to a financial transaction between the individual and a governmental body is protected by common-law privacy. *See Open Records Decision Nos. 600 (1992), 545 (1990)*. Upon review, we conclude that the submitted information reflects the trustors’ personal financial decisions and does not involve a financial transaction between the trustors and a governmental body. Therefore, the submitted information must be withheld under section 552.101 in conjunction with common-law privacy.

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/rl

Ref: ID# 366130

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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