



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 1, 2011

Mr. Brett Norbraten
Open Records Attorney
Texas Department of Aging and Disability Services
P.O. Box 149030
Austin, Texas 78714-9030

OR2011-04487

Dear Mr. Norbraten:

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# 413334 (DADS # 2011SOLEG0015).

The Texas Department of Aging and Disability Services (the "department") received a request for a video recording of a specified incident. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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. This section encompasses statutory confidentiality provisions. You contend that the submitted information is confidential under section 48.101 of the Human Resources Code, which pertains to the disclosure of reports of abuse, neglect, or exploitation of elderly and disabled persons in certain facilities. Section 48.101 provides in pertinent part:

¹Although you raised section 552.108 of the Government Code, you did not provide any arguments regarding the applicability of this section. Therefore, we assume you have withdrawn this exception. See Gov't Code §§ 552.301, .302.

(a) The following information is confidential and not subject to disclosure under Chapter 552, Government Code:

- (1) a report of abuse, neglect, or exploitation made under this chapter;
- (2) the identity of the person making the report; and
- (3) except as provided by this section, all files, reports, records, communications, and working papers used or developed in an investigation made under this chapter or in providing services as a result of an investigation.

(b) Confidential information may be disclosed only for a purpose consistent with this chapter and as provided by department or investigating state agency rule and applicable federal law.

Hum. Res. Code § 48.101(a), (b). You state that the submitted information relates to an investigation made under chapter 48 of the Human Resources Code. *See id.* § 48.252(a)(1), 40 T.A.C. § 711.1. Based upon your representations and our review, we find the submitted information consists of files, reports, records, communications, and working papers used or developed in an investigation made under chapter 48. Such information must not be released to the public, except for a purpose consistent with chapter 48 or as provided by a department or investigating state agency rule or federal law. *See Hum. Res. Code* § 48.101(b). *But see id.* § 48.101(c)-(g) (permitting release of confidential information in certain circumstances). You do not indicate, nor does it appear, that an exception to confidentiality applies in this instance. Accordingly, we conclude that the department must withhold the submitted information in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 48.101 of the Human Resources Code.²

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

²As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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,

A handwritten signature in black ink, appearing to read 'Vanessa Burgess', with a long horizontal flourish extending to the right.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 413334

Enc. Submitted documents

c: Requestor
(w/o enclosures)