



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 17, 2012

Ms. Doreen E. McGookey  
General Counsel  
Fort Worth Employees' Retirement Fund  
3801 Hulen Street, Suite 101  
Fort Worth, Texas 76107

OR2012-02557

Dear Ms. McGookey:

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# 445847.

The Fort Worth Employees' Retirement Fund (the "fund") received a request for a specified deposition. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.143 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from a representative of the requestor and from other interested parties. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

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 exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *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 elements of the test must be established. *See id.* at 681-82. This office has determined that personal financial information not related to a transaction between an individual and a governmental body generally meets the first prong of the common-law privacy test. *See generally* Open Records Decision No. 600 (1992). However, there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See generally* Open Record

Decision No. 545 (1990) (financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common-law privacy). Whether financial information is subject to a legitimate public interest and therefore not protected by common-law privacy must be determined on a case-by-case basis. *See* Open Records Decision No. 373 (1983). The submitted information consists of a transcript of an examination conducted in the personal bankruptcy cases of managers of a limited partnership in which the fund invested. You seek to withhold the submitted information under section 552.101 in conjunction with common-law privacy because you state it pertains to personal financial information. However, you state an attorney for the fund conducted the examination “to inquire about the investments related to [the limited partnership in which the fund invested].” Based on our review of the information at issue, we conclude there is a legitimate public interest in this information. Therefore, the fund may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

You also assert some the submitted information is excepted from disclosure under section 552.143 of the Government Code. Section 552.143 provides, in part, the following:

(a) All information prepared or provided by a private investment fund and held by a governmental body that is not listed in Section 552.0225(b) is confidential and excepted from the requirements of Section 552.021.

(b) Unless the information has been publicly released, pre-investment and post-investment diligence information, including reviews and analyses, prepared or maintained by a governmental body or a private investment fund is confidential and excepted from the requirements of Section 552.021, except to the extent it is subject to disclosure under Subsection (c).

Gov’t Code § 552.143 (a), (b). You state the information you have indicated consists of a post-investment due diligence review conducted by the attorney for the fund of assets managed by the individuals who are in bankruptcy. You inform us that the information at issue has not been released to the public. Based on your representations and our review, we agree that the fund must withhold the information you have indicated under section 552.143(b) of the Government Code. As no further exceptions to disclosure have been raised, the fund must release the remaining information.

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](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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/em

Ref: ID# 445847

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

Mr. Randy M. Creighton  
Black & LoBello  
10777 West Twain Avenue, Third Floor  
Las Vegas, Nevada 89135  
(w/o enclosures)

Mr. Robert D. Klausner  
Klausner, Kaufman, Jensen & Levinson  
10059 Northwest 1<sup>st</sup> Court  
Plantation, Florida 33324  
(w/o enclosures)