



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 7, 2016

Ms. Kristen Worman
Deputy General Counsel
Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188

OR2016-12929

Dear Ms. Worman:

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# 613474 (ORR# 20160321.3).

The Texas Real Estate Commission (the "commission") received a request for information related to a named individual and a specified real estate firm. You claim the commission need not comply with the request pursuant to section 552.028 of the Government Code. Alternatively, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides, in relevant part:

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility[.]

...

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

(c) In this section, "correctional facility" means:

(1) a secure correctional facility, as defined by Section 1.07, Penal Code;

(2) a secure correctional facility and a secure detention facility, as defined by Section 51.02, Family Code; and

(3) a place designated by the law of this state, another state, or the federal government for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

See Gov't Code § 552.028(a)(1), (b)-(c). You inform us the requestor has been released from prison and currently resides in a federal Residential Reentry Center, also known as a halfway house. You argue a halfway house is a "correctional facility" for purposes of section 552.028(c)(3) of the Government Code. *See id.* § 552.028(c) ("correctional facility" includes a place designated by the law of the federal government for the confinement of a person arrested for, charged with, or convicted of a criminal offense"). We agree although the requestor is no longer imprisoned, his release was "not to the general public but was rather to a different form of confinement, albeit with certain additional liberties." *See Jackson v. Johnson*, 475 F.3d 261 (5th Cir. 2007). Upon review, therefore, we find the requestor was imprisoned or confined in a correctional facility for purposes of section 552.028 of the Government Code at the time the request was received. Thus, we conclude section 552.028 is applicable in this instance. Accordingly, we find the commission need not comply with the instant request. As we are able to make this determination, we do not address your remaining argument against disclosure of the 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 613474

Enc. Submitted documents

c: Requestor
(w/o enclosures)