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ATTORNEY GENERAL OF TEXAS

August 22, 2017

Mr. Mark Anthony Sánchez
Counsel for the La Joya Housing Authority
Sánchez & Wilson
6243 IH-10 West, Suite 1025
San Antonio, Texas 78201

OR2017-19105

Dear Mr. Sánchez:

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# 672074 (S&W File No. 6221).

The La Joya Housing Authority (the "authority"), which you represent, received a request for the entire tenant file of the requestor's client and the authority's grievance policy. You claim the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released).

Initially, we note you have not submitted information responsive to the request for the authority's grievance policy. Thus, to the extent any information responsive to the request for the authority's grievance policy existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we note pursuant to section 1437(a)(1)(C) of title 42 of the United States Code, it is the policy of the United States to employ "the funds and credit of the Nation . . . to vest in public housing agencies ["PHAs"] . . . the maximum amount of responsibility and flexibility

in program administration, with appropriate accountability to public housing residents[.]” 42 U.S.C. § 1437(a)(1)(C). The submitted information is subject to section 966.4(m) of title 24 of the Code of Federal Regulations. Section 966.4(m) provides in relevant part:

The PHA shall provide the tenant a reasonable opportunity to examine, at the tenant’s request, before a PHA grievance hearing or court trial concerning a termination of tenancy or eviction, any documents, including records and regulations, which are in the possession of the PHA, and which are directly relevant to the termination of tenancy or eviction. The tenant shall be allowed to copy any such document at the tenant’s expense. A notice of lease termination pursuant to § 966.4(l)(3) shall inform the tenant of the tenant’s right to examine PHA documents concerning the termination of tenancy or eviction.


24 C.F.R. § 966.4(m). We understand the authority is a PHA. *See id.* §§ 5.100 (defining PHA as any state, county, municipality, or other governmental entity authorized to engage in or assist in development or operation of public housing), 966.2; *cf.* 42 U.S.C. § 1437a(b)(6) (defining PHA as any state, county, municipality, or other governmental entity authorized to engage in or assist in development or operation of public housing). You state the authority “has initiated eviction proceedings against” the requestor’s client, who is a tenant. Upon review, we find the submitted information is directly relevant to the eviction at issue. Further, we note the requestor has requested to examine the information at issue on behalf of her client. Accordingly, the requestor has a right of access to the submitted information pursuant to section 966.4(m). Although the authority raises sections 552.103 and 552.108 of the Government Code as exceptions to disclosure, section 966.4(m) preempts any conflicting state provisions, including sections 552.103 and 552.108. *See English v. Gen. Elec. Co.*, 496 U.S. 72, 79 (1990) (noting that state law is preempted to extent it actually conflicts with federal law); *La. Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 369 (1986) (noting that federal agency acting within scope of its congressionally delegated authority may preempt state regulation). Thus, the authority must release the submitted information pursuant to section 1437(a)(1)(C) of title 42 of the United States Code and section 966.4(m) of title 24 of the Code of Federal Regulations.¹

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.

¹Because the requestor has a right of access to certain information that otherwise would be excepted from release under the Act, the authority must again seek a decision from this office if it receives a request for this information from a different requestor.

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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/bw

Ref: ID# 672074

Enc. Submitted documents

c: Requestor
(w/o enclosures)