



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 1, 2017

Ms. Kimberly Wilkerson
Counsel for Texas City Fireman's Relief and Retirement Fund
Hund, Krier, Wilkerson, & Wright, P.C.
3217 34th Street
Lubbock, Texas 79410-3229

OR2017-24967

Dear Ms. Wilkerson:

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# 682091.

The Texas City Fireman's Relief and Retirement Fund (the "fund"), which you represent, received a request for handwritten notes and information pertaining to specified agenda items from a specified meeting. You state the fund does not have information responsive to a portion of the request.¹ You also state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted 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." Gov't Code § 552.101. This section encompasses information protected by other statutes. The Texas Local Firefighters Retirement Act ("TLFRA"), article 6243e of Vernon's Annotated Texas Civil Statutes, provides in pertinent part:

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

Sec. 32. (a) Information contained in records that are in the custody of a retirement system established under this Act concerning an individual member, retiree, annuitant, or beneficiary is confidential under [the Act] and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual;

(B) the individual's attorney, guardian, executor, administrator, conservator, or other person who the board of trustees of the retirement system determines is acting in the interest of the individual or the individual's estate;

(C) a spouse or former spouse of the individual if the board of trustees determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system; or

(D) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed under an authorization of the board of trustees that specifies the reason for the disclosure.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, or beneficiary of the retirement system.

(c) A determination and disclosure under Subsection (a) of this section may be made without notice to the individual member, retiree, annuitant, or beneficiary.

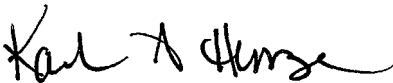
Tex. Rev. Civ. Stat. Ann. art. 6243e, § 32. We understand that the fund is an entity formed under the authority of TLFRA. You assert the submitted information identifies "an individual member of the fund." We agree that the submitted information is in the custody of the fund and is subject to section 32 of article 6243e. You state the requestor is not a person to whom disclosure may be permitted under this provision and the fund is not otherwise authorized to release the requested information. *See id.* § 32(a)(1). Based on these representations and our review of the information at issue, we conclude the submitted information is confidential under section 32 of article 6243e of Vernon's Annotated Texas

Civil Statutes and must be withheld in its entirety pursuant to section 552.101 of the Government Code.

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,

A handwritten signature in black ink that reads "Kael A Henze". The signature is written in a cursive style with a large initial "K" and "H".

Kaelan A. Henze
Assistant Attorney General
Open Records Division

KAH/gw

Ref: ID# 682091

Enc. Submitted documents

c: Requestor
(w/o enclosures)