



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 21, 2019

Mr. Thomas Royce Hansen
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102

OR2019-04910

Dear Mr. Hansen:

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# 751242 (PIR Request No. W078837).

The City of Fort Worth (the "city") received a request for a specified lease agreement. 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 3616 of title 42 of the United States Code authorizes the U.S. Department of Housing and Urban Development ("HUD") to utilize the services of state and local fair housing agencies to assist in meeting its statutory mandate to enforce laws prohibiting discrimination. *See* 42 U.S.C. § 3616. Pursuant to this authorization, you state the city's Human Relations Commission (the "commission") is currently operating under a cooperative agreement with HUD in the investigation and resolution of complaints of housing discrimination. Section 301.063 of the Property Code states the Texas Workforce Commission shall receive, investigate, seek to conciliate, and act on complaints alleging violations of the Texas Fair Housing Act. *See* Prop. Code § 301.063. Then, upon the filing of a complaint, both federal and state law mirror each other in language and encourage conciliation to the extent feasible. *See* 42 U.S.C. § 3610(b) (providing during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal the Secretary of HUD shall, to the extent feasible, engage in conciliation, to the extent

feasible); Prop. Code § 301.085 (providing that the Texas Workforce Commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the Texas Workforce Commission, to the extent feasible, engage in conciliation with respect to the complaint). Section 301.068 states the Texas Workforce Commission may refer a complaint to a municipality that is certified by HUD. *See* Prop. Code § 301.068.

You state the submitted information relates to a housing discrimination complaint filed with the commission under its cooperative agreement. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 301.085 of the Property Code. 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. You claim section 552.101 encompasses section 301.085(f) of the Property Code, which provides:

(f) After completion of the [Texas Workforce Commission’s] investigation, the [Texas Workforce Commission] shall make available to the aggrieved person and the respondent, at any time, information derived from the investigation and the final investigative report relating to that investigation.

Prop. Code § 301.085(f). We note section 301.085(f) mandates release of the final investigative report upon request of a party to the complaint. In this instance, you state although the requestor is a party to the complaint, the investigation of the complaint at issue is still ongoing, and the commission has taken no final action in this case. You assert the submitted information is confidential under section 301.085(f) of the Property Code. However, we find section 301.085(f) does not make information confidential for purposes of the Act; instead, it only provides the information available to the aggrieved person and the respondent after the investigation is completed. *See id.*; Open Records Decision Nos. 658 at 4 (1998), 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to the public). Therefore, none of the information at issue is confidential under section 301.085(f), and the commission may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 301.085(f) of the Property Code.

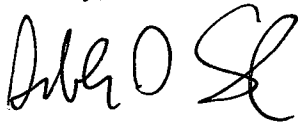
Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. In addition, this office has found personal financial information not relating to a

financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. See Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we find some of the submitted information meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the remaining information at issue is not highly intimate or embarrassing information or is of legitimate public interest. Therefore, none of the remaining information at issue may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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.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,



Deborah Southerland
Attorney
Open Records Division

DS/eb

Ref: ID# 751242

Enc. Submitted documents

c: Requestor
(w/o enclosures)