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ATTORNEY GENERAL OF TEXAS

July 11, 2022

Mr. Benjamin Lugg  
Attorney  
San Antonio Housing Authority  
818 South Flores Street  
San Antonio, Texas 78204

OR2022-19728

Dear Mr. Lugg:

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# 956418 (Ref. No. W002910-042822).

The San Antonio Housing Authority (the "authority") received a request for the current address pertaining to a named individual. The authority claims the submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the claimed exceptions 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 the requestor only seeks the named individual's current address. The authority has submitted documents that contain information beyond this specific type of information. Thus, the portions of the submitted documents that do not consist of the information requested are not responsive to the instant request. This ruling does not address the public availability of any information that is not responsive to the request and the authority is not required to release that information in response to the request.<sup>1</sup>

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. Section 552.101 encompasses section 12291 of title 34 of the United States Code, which is part of the Violence Against Women Act ("VAWA"). Section 12291(b)(2) provides, in part:

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<sup>1</sup> As we are able to make this determination, we need not address the arguments against disclosure of this information.

(2) Nondisclosure of confidential or private information

(A) In general

In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees under this subchapter shall protect the confidentiality and privacy of persons receiving services.

(B) Nondisclosure

Subject to subparagraphs (C) and (D), grantees and subgrantees shall not—

(i) disclose, reveal, or release any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs, regardless of whether the information has been encoded, encrypted, hashed, or otherwise protected; or

(ii) disclose, reveal, or release individual client information without the informed, written, reasonably time-limited consent of the person . . . about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, incapacitated person, or the abuser of the other parent of the minor.

If a minor or a person with a legally appointed guardian is permitted by law to receive services without the parent's or guardian's consent, the minor or person with a guardian may release information without additional consent.

34 U.S.C. § 12291(b)(2)(A), (B). Section 12291(a)(20) states:

(20) Personally identifying information or personal information

The term “personally identifying information” or “personal information” means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including—

(A) a first and last name;

(B) a home or other physical address;

(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

(D) a social security number, driver license number, passport number, or student identification number; and

(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual.

*See id.* § 12291(a)(20). The authority states it receives grants under VAWA to provide housing assistance to families who are the victims of domestic violence. *See id.* § 12291; *see also* 34 U.S.C. § 12475(b) (authorizing grants to promote access to and use of public and assisted housing by victims of domestic violence, dating violence, sexual assault, and stalking). The authority informs us that the information at issue may pertain to a family the authority serves with the aid of such grants. The authority indicates it has not received consent to release any information from the person about whom information is sought pursuant to section 12291(b)(2)(B)(ii). Based on these representations and our review, we find, to the extent the information at issue was collected in connection with the authority's rendition of housing assistance funded by VAWA, the authority must withhold the responsive information pursuant to section 552.101 of the Government Code in conjunction with section 12991(b)(2) of title 34 of the United States Code.<sup>2</sup> However, the authority may not withhold the information at issue if it was not collected in connection with the authority's rendition of housing assistance funded by VAWA under section 552.101 of the Government Code on that basis. In that instance, we will address the authority's remaining arguments against disclosure of the responsive information.

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. We note an individual's name, address, and telephone number are generally not private information under common-law privacy. *See* Open Records Decision No. 554 at 3 (1990) (disclosure of person's name, address, or telephone number not an invasion of privacy). Further, we note, this office has concluded the names and present addresses of current or former residents of a public housing development are not protected from disclosure under the common-law right to privacy. *See* Open Records Decision No. 318 (1982). Upon review, we find the authority has failed to demonstrate any portion of the information at issue is highly intimate or embarrassing and not of legitimate public interest. Thus, the authority may not withhold the responsive information under section 552.101 of the Government Code in conjunction with common-law privacy.

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<sup>2</sup> In this instance, as our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

Section 552.102(a) of the Government Code excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). We understand the authority to assert the privacy analysis under section 552.102(a) is the same as the common-law privacy test under section 552.101 of the Government Code, which is discussed above. *See Indus. Found.*, 540 S.W.2d at 685. In *Hubert v. Harte-Hanks Texas Newspapers, Inc.*, 652 S.W.2d 546, 549-51 (Tex. App.—Austin 1983, writ ref’d n.r.e.), the court of appeals ruled the privacy test under section 552.102(a) is the same as the *Industrial Foundation* privacy test. However, the Texas Supreme Court has expressly disagreed with *Hubert’s* interpretation of section 552.102(a), and held the privacy standard under section 552.102(a) differs from the *Industrial Foundation* test under section 552.101. *See Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). The supreme court also considered the applicability of section 552.102(a) and held it excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *See id.* at 348. Having carefully reviewed the information at issue, we find no portion of the information at issue is subject to section 552.102(a) of the Government Code, and the authority may not withhold the responsive information on that basis.

In summary, to the extent the information at issue was collected in connection with the authority’s rendition of housing assistance funded by VAWA, the authority must withhold the responsive information pursuant to section 552.101 of the Government Code in conjunction with section 12991(b)(2) of title 34 of the United States Code. To the extent the information at issue was not collected in connection with the authority’s rendition of housing assistance funded by VAWA, the authority must release the responsive 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Alexandra C. Burks  
Assistant Attorney General  
Open Records Division

ACB/jm

Ref: ID# 956418

c: Requestor