



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 15, 2022

Ms. Hadassah Schloss
Director, Open Government
Texas General Land Office
P.O. Box 12873
Austin, Texas 78711-2873

OR2022-28363

Dear Ms. Schloss:

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# 969414 (GLO ID# 22-0790).

The Texas General Land Office (the "GLO") received a request for several categories of data pertaining to disaster recovery programs managed by the GLO. You inform us the GLO has released some of the requested information and does not maintain information responsive to a portion of the request for information.¹ The GLO claims a portion of the submitted responsive information is excepted from disclosure under sections 552.101 and 552.160 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.²

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which

¹ The 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).

² We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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. Upon review, we conclude some of the remaining information meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. You claim the demographic information you marked is confidential under section 552.101 in conjunction with common-law privacy. We note the information at issue pertains to individuals who are not identified and, thus, whose privacy interests are protected. Thus, the GLO may not withhold the information at issue under section 552.101 in conjunction with common-law privacy.

Section 552.160 of the Government Code provides, in relevant part:

(b) Except as provided by Subsection (c), the following information maintained by a governmental body is confidential:

(1) the name, social security number, house number, street name, and telephone number of an individual or household that applies for state or federal disaster recovery funds;

(2) the name, tax identification number, address, and telephone number of a business entity or an owner of a business entity that applies for state or federal disaster recovery funds; [and]

(3) any other information the disclosure of which would identify or tend to identify a person or household that applies for state or federal disaster recovery funds.

(c) The street name and census block group of and the amount of disaster recovery funds awarded to a person or household are not confidential after the date on which disaster recovery funds are awarded to the person or household.

Gov't Code § 552.160(b), (c); *see also id.* § 552.160(a); *id.* § 418.004(1) (defining "disaster" for purposes of section 552.160). Upon review, we find you failed to demonstrate the information at issue identifies or tends to identify a business entity, an owner of a business entity, a person, or household that applied for state or federal disaster recovery funds. Thus, the GLO may not withhold the information at issue under section 552.160 of the Government Code. The GLO 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,

Michelle Garza
Assistant Attorney General
Open Records Division

MRG/jxd

Ref: ID# 969414

Enc. Submitted documents

c: Requestor
(w/o enclosures)