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GEORGE DEUKMEJIAN
Attorney General

OPINION	:	No. 79-506
	:	
of	:	<u>August 17, 1979</u>
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GEORGE DEUKMEJIAN	:	
Attorney General	:	
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Rodney Lilyquist, Jr.	:	
Deputy Attorney General	:	
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SUBJECT: DISCLOSURE OF TREASURER’S RECORDS—The Treasurer’s records that specify the owners of state registered bonds are open to public inspection under the California Public Records Act.

The Honorable Jesse M. Unruh, State Treasurer, has requested an opinion on the following question:

Are the Treasurer’s records that specify the owners of state registered bonds open to public inspection?

CONCLUSION

The Treasurer’s records that specify the owners of state registered bonds are open to public inspection under the California Public Records Act, with the exception that the name and address of individual bond owners may not be distributed for commercial purposes, sold or rented by the Treasurer’s office.

ANALYSIS

State general obligation bonds are issued by the Treasurer in two forms. The owner of a “bearer” bond may transfer ownership by mere delivery of the bond and may collect interest on the bond by submitting “coupons” to the Treasurer for payment. The owner of a “registered” bond may transfer ownership by submitting to the Treasurer his or her guaranteed signature on a request to transfer record ownership, and prior thereto he or she will receive interest payments automatically from the Treasurer as they become payable. The latter type of bond provides greater safety from loss, while the former allows for easier transferability.

Although the Treasurer does not maintain records of bearer bond owners, other than the documents necessary to pay the interest coupons, he must necessarily record the name and address of each registered bond owner, as well as the bond series, interest rate, maturity date, and principal amount owed to each. The question presented for analysis is whether the information in the Treasurer’s files indicating the identities of the bond owners is open to inspection by the public. We conclude that it is.

In determining the disclosure issue, we must examine two interrelated concerns: the right of privacy of individuals and the public’s right to inquire regarding the conduct of government business. As was stated by the Court of Appeal in *Black Panther Party v. Kehoe* (1974) 42 Cal. App. 3d 645, 651–652:

“Government files hold massive collections which are roughly divisible into public business and private revelations. Statutory and decisional law on public record disclosure reveals two fundamental if somewhat competing societal concerns—prevention of secrecy in government and protection of individual privacy. ‘The people’s right to know’ is a rubric which often accompanies disclosure claims. The ‘right to know’ demands public exposure of recorded official action. A narrower but important interest is the privacy of individuals whose personal affairs are recorded in government files. Societal concern for privacy focuses on minimum exposure of personal information collected for governmental purposes. The California courts have equated the right of privacy with the right ‘to be let alone,’ which must be balanced against public interest in the dissemination of information demanded by democratic processes.”

The Legislature has enacted the California Public Records Act (Gov. Code, §§ 6250–6260) to help protect the public’s right of access to information concerning the conduct of government business. Under section 6253 of the statutory scheme, “public

records”¹ are open to inspection at all times during the office hours of “state”² and “local”³ agencies unless specifically exempt under the provisions of section 6254 or unless “on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.” (§ 6255.) The general policy of the legislation scheme favors disclosure. (See *Berkeley Police Association v. City of Berkeley* (1977) 76 CaL App. 3d 931,941; *Cook v. Craig* (1976) 55 Cal. App. 3d 773, 781.)

In examining the exemption provisions of Government Code section 6254, we observe that “Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law” are exempt from disclosure under subdivision (k).

The state law that may be applicable here is the Information Practices Act of 1977 (Civ. Code, §§ 1798.1-798.76), which the Legislature enacted to help safeguard the constitutional right of privacy. Thus, while the Treasurer’s registered bond owner records are “public records” under the California Public Records Act, they may be exempt from disclosure under its provisions relating to other state laws.

Civil Code section 1798.24 provides that “No agency may disclose any personal or confidential information unless the disclosure of such information is [authorized under subdivisions (a) through (t)].” “Agency” is defined as “every state office, officer, department, division, bureau, board, commission, or other state agency, except [the Legislature, the Judiciary, and State Compensation Insurance Fund in certain circumstances].” (Civ. Code, § 1798.3, subd. (d).) “Personal information” is generally defined as “any information in any record about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical or employment history.” (Civ. Code, § 1798.3, subd. (b).) “Confidential information” is defined under a number of subdivisions of the statute, each inapplicable to the Treasurer’s registered bond owner records.

¹ “Public records” are defined as including “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” (Gov. Code, § 6252, subd. (d).)

² A “state agency” is defined as “every state office, officer, department, division, bureau, board, and commission or other state agency, except [the Legislature and the Judiciary].” (Gov. Code, § 6252, subd. (a).)

³ A “local agency” is defined as including “a county; city, . . . school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof. . . .” (Gov. Code, § 6252, subd. (b).)

Significantly, subdivision (g) of Civil Code section 1798.24 was recently amended by the Legislature on an urgency basis. (Stats. 1979, ch. 143). Formerly, it allowed the disclosure of personal information if authorized under the California Public Records Act except for “personal information contained in individual employment or medical files, or other personal information which would clearly be disparaging of or threatening to the reputation or rights of an individual other than a state employee acting in his or her official capacity.” This “exception” language, however, was removed from the statute by the amendment, and now subdivision (g) allows for the disclosure of any personal information authorized to be disclosed “Pursuant to the California Public Records Act.”

Accordingly, we need not decide whether the Treasurer’s registered bond owner records contain “personal information” (that cannot generally be disclosed under the Information Practices Act of 1977) or “nonpersonal information” (subject to disclosure). We merely observe, however, that “nonpersonal information” is defined to include: “Information consisting only of names, addresses, telephone numbers and other limited factual data, which could not, in any reasonable way (i) reflect or convey anything detrimental, disparaging, or threatening to an individual’s reputation, rights, benefits, privileges, or qualifications or (ii) be used by an agency to make a determination that would affect an individual’s rights, benefits, privileges, or qualifications.” (Civ. Code, § 1798.3, subd. (c) (1).)

Although the general provisions of the Information Practices Act of 1977 thus yield to the provisions of the California Public Records Act regarding the disclosure of personal as well as nonpersonal information, Civil Code section 1798.75 states:

“This chapter shall not be deemed to supersede Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, *except as to the provisions of Sections 1798.60 and 1798.70.*” (Emphasis added.)

In these two specified areas, the Information Practices Act of 1977 would supersede the California Public Records Act.

While Civil Code section 1798.70⁴ does not affect our basic conclusion concerning the Treasurer's bond owner records, Civil Code section 1798.60 states: "An individual's name and address may not be distributed for commercial purposes, sold, or rented by an agency unless such action is specifically authorized by law." We know of no laws that specifically authorize the Treasurer to distribute for commercial purposes, sell, or rent the names and addresses of registered bond owners. Hence, this information may not be so distributed regardless of the disclosure provisions of the California Public Records Act.⁵

No other exemption provision of the California Public Records Act appears to be relevant to our discussion. We do not believe that the Treasurer's bond owner records are similar to personnel or medical files exempt from disclosure under subdivision (c) of Government Code section 6254. The bond owner records reflect the actual conduct of the Treasurer's public business, while personnel and medical files concern more private revelations collected for other than what is normally viewed as "recorded official action." (See *Black Panther Party v. Kehoe*, *supra*, 42 Cal. App. 3d 645, 65 1-652.)

The conclusion to the question presented, therefore, is that the Treasurer's records specifying the owners of state registered bonds are open to public inspection under the California Public Records Act but may not be distributed for commercial purposes, sold or rented by the Treasurer's office.

⁴ Civil Code section 1798.70 provides:

"This chapter shall be construed to supersede any other provision of state law, including Section 6253.5 of the Government Code, or any exemption in Section 6254 or 6255 of the Government Code, which authorizes any agency to withhold from an individual any record containing personal information which is otherwise accessible under the provisions of this chapter."

⁵ A "conflict" does not exist between the two statutory schemes since, as noted, subdivision (k) of Government Code section 6254 exempts from disclosure any record "the disclosure of which is . . . prohibited pursuant to the provisions of . . . state law."