

## STATE OF TENNESSEE COMPTROLLER OF THE TREASURY

OFFICE OF OPEN RECORDS COUNSEL James K. Polk State Office Building 505 Deaderick Street, Suite 1700 Nashville, Tennessee 37243-1402

Justin P. Wilson Comptroller

July 7, 2011

Keith Bowers, Esq. Carter County Attorney 3862 Highway 19E Elizabethton, Tennessee 37643

You have requested an opinion from this office that addresses the following issues:

1. The Carter County Planning Office maintains building permit applications. *See* Attachment A. A request has been made for copies of all the building permit applications dated September 1, 2010 to May 17, 2011. Is there any information on the building permit applications that needs to be redacted prior to making copies of the applications accessible to the requestor?

## II. Analysis

The Tennessee Public Records Act (hereinafter referred to as "TPRA") defines "public record" as:

all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

Tenn. Code Ann. Section 10-7-503(a)(1). The TPRA goes on to require that all public records, whether maintained by a state, county, and municipal governmental agency, be open for public inspection by a citizen of Tennessee during normal business hours, unless there is a provision within state law that makes the record or a portion thereof confidential. Tenn. Code Ann. Section 10-7-503(a)(2)(A). The Tennessee General Assembly has declared that the Tennessee Public Records Act "shall be broadly construed so as to give the fullest possible public access to public records." Tenn. Code Ann. Section 10-7-505(d). In turn, the courts in Tennessee have held that unless there is an exception for the disclosure of a record, disclosure is required "even in the face

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of serious contravailing considerations." *Memphis Publishing Company v. City of Memphis*, 871 S.W. 2d 681, 684 (Tenn. 1994).

After looking at the form that you submitted for this office's review, and given the fact that Carter County does not collect the privilege tax or issue the privilege tax number that is referenced on the form, there does not appear to be any other information contained within the form that is confidential under state or federal law. I have been unable to find any provisions within Tennessee state law that makes any of the information contained within the building permit application confidential. Likewise, I have been unable to find any provision within federal law that makes any of the information contained within the building permit application confidential. Based upon the aforementioned, it is the opinion of this office that the building permit applications should be provided to the requestor in an unredacted form. 

1. \*\*Total Carter\*\*

\*\*County does not collect that is referenced on the fact that is referenced on the form that is referenced on the form that is confidential and the form that is confidential and provisions within the building permit application confidential.

Please feel free to call me at (615) 401-7891 if you have any further questions.

Sincerely,

Elisha D. Hodge Open Records Counsel

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<sup>&</sup>lt;sup>1</sup> This office was provided a copy of a redacted building permit application that was provided to the requestor prior to this opinion request being made. *See* Attachment B. It appears that the Carter County Planning office redacted the state building permit number, the applicant's phone number, and the words "RECOMMENDED TO" and "SOUTHERN" from the phrase on the application that reads, "RECOMMENDED TO FOLLOW THE SOUTHERN BUILDING CODES FOR THIS AREA" and wrote in "IRC 2009" so that this particular phrase now reads "FOLLOW THE IRC 2009 BUILDING CODES FOR THIS AREA." It seems appropriate that the words "RECOMMENDED TO" and "SOUTHERN" be struck through on the building permit application since the State adopted and now enforces the 2009 International Residential Code (IRC).

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