



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 21, 2007

Ms. Maleshia B. Farmer
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2007-10819

Dear Ms. Farmer:

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# 287270.

The City of Fort Worth (the "city") received a request for tow records and insurance information pertaining to a specified vehicle. You state that you have redacted certain Texas-issued motor vehicle record information pursuant to a previous determination issued to the city in Open Records Letter No. 2007-00198 (2007).¹ You indicate that most of the requested information will be released, but claim that 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 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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault,

¹See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found that the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Upon review of the arguments and the information at issue, we determine that no portion of the submitted information may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

We note, however, that a portion of the information at issue is confidential under section 1304 of title 8 of the United States Code. Section 1304 addresses the confidentiality of the registration of aliens under section 1301 of the United States Code. 1304(b) provides that “[a]ll registration and fingerprint records made under the provisions of this subchapter shall be confidential, and shall be made available only (1) pursuant to section 1357(f)(2) of this title, and (2) to such persons or agencies as may be designated by the Attorney General.” 8 U.S.C. § 1304(b). Section 264.1 of title 8 of the Code of Federal Regulations lists the type of documents that constitute registration forms. *See* 8 C.F.R. § 264.1. We have marked the document in Exhibit C that falls within the scope of section 264.1. The requestor does not have a right of access to this information. Therefore, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 1304 of title 8 of the United States Code.

We also note that the submitted information contains information that is protected under sections 552.130 and 552.136 of the Government Code.² Section 552.130 of the Government Code provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1), (2). Therefore, the city must withhold the information we have marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code states that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136. The city must withhold the insurance policy number we have marked under section 552.136 of the Government Code.

²Unlike other exceptions to disclosure, this office will raise sections 552.130 and 552.136 on behalf of a governmental body, as they are mandatory exceptions to disclosure and may not be waived. *See* Gov’t Code §§ 552.007, 352; Open Records Decision No. 674 at 3 n.4 (2001).

In summary, the city must withhold the marked document that is confidential under section 552.101 of the Government Code in conjunction with section 1304 of title 8 of the United States Code. The city must also withhold the information we have marked under sections 552.130 and 552.136 of the Government Code. The remaining submitted information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Paige Savoie". The signature is written in a cursive, flowing style.

Paige Savoie
Assistant Attorney General
Open Records Division

PS/ma

Ref: ID# 287270

Enc. Submitted documents

c: Ms. Maria Ortiz
1312 Seaman
Fort Worth, Texas 76111
(w/o enclosures)