



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 21, 2009

Mr. Darrell G-M Noga
Fee Smith Sharp & Vitullo LLP
Three Galleria Tower
13155 Noel Road, Suite 1000
Dallas, Texas 75240

OR2009-00834

Dear Mr. Noga:

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# 332573.

The City of Coppel (the "city"), which you represent, received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the information you have submitted.

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 common-law privacy. Common-law privacy 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). In Open Records Decision No. 393 (1983), this office concluded that, generally, only that information which either identifies or tends to identify a victim of sexual assault or other sex-related offense may be withheld under common-law privacy; however, because the identifying information was inextricably intertwined with other releasable information, the governmental body was required to withhold the entire report. Open Records Decision No. 393 at 2 (1983); *see* Open Records Decision No. 339 (1982); *see also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of

witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information); Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld). Although you seek to withhold the submitted information in its entirety, you have not demonstrated, nor does it otherwise appear, this is a situation where the entirety of the submitted information must be withheld on the basis of common-law privacy. However, we do find the submitted information contains information that is highly intimate or embarrassing and not a matter of legitimate public interest. Thus, the city must withhold the information we have marked pursuant to section 552.101 in conjunction with common-law privacy.

You claim portions of the remaining information are excepted from disclosure under section 552.130 of the Government Code. Section 552.130 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). Accordingly, we have marked the Texas motor vehicle record information the city must generally withhold pursuant to section 552.130. However, we note that the Texas motor vehicle record information at issue belongs to the requestor and her spouse. As such, the requestor has a right of access to her own Texas motor vehicle record information pursuant to section 552.023. *See id.* § 552.023 (person or person's authorized representative has a special right of access to information that relates to a person that are protected from public disclosure by laws intended to protect that person's privacy interest). Furthermore, the requestor has a right of access to her spouse's Texas driver's license number, if she is acting as his authorized representative. *See id.* Thus, if the requestor is seeking the information as the authorized representative of her spouse, then she has a right of access to his Texas driver's license number, and the city may not withhold this information under section 552.130. If the requestor is not seeking the information as her spouse's authorized representative, then the city must withhold the Texas driver's license number we have marked under section 552.130.

Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *Id.* § 552.147. Section 552.147 is based on privacy concerns as well. Accordingly, pursuant to section 552.023, the requestor has a right of access to her spouse's social security number if the requestor is acting as his authorized representative, and the city may not withhold this information under section 552.147 of the Government Code. *See id.* § 552.023. If the requestor is not acting as the authorized representative of her spouse, then the city may withhold the social security number at issue under section 552.147.

In summary, the city must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. If the requestor is not acting as the authorized representative of her spouse, then the city must withhold the Texas driver's license number

we have marked under section 552.130 and may withhold the social security number at issue under section 552.147. The remaining information must be released.

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/eeg

Ref: ID# 332573

Enc. Submitted documents

c: Requestor
(w/o enclosures)