



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 3, 2009

Ms. Cynthia Villareal-Reyna
Agency Counsel
Texas Department of Insurance
Legal Services Division
P. O. Box 149104
Austin, Texas 78714-9104

OR2009-01369

Dear Ms. Villareal-Reyna:

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# 333888 (TDI # 84635).

The Texas Department of Insurance (the "department") received a request for any and all records pertaining to two specified individuals. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.136, and 552.137 of the Government Code. We have considered the exceptions 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. This section 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally excepted from required public disclosure under common-law privacy. *See*

Open Records Decision Nos. 600 (1992), 545 (1990), 373 (9183) (mortgage payments, assets, bills, and credit history protected under common-law privacy).

You have marked personal financial information you seek to withhold under section 552.101. We agree that the information you have marked is highly intimate and not of legitimate public interest; therefore, the department must withhold the information you have marked on that basis under section 552.101 of the Government Code.

Next, 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(b). Accordingly, the department must withhold the policy numbers you have marked under section 552.136 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). The e-mail addresses at issue are not of a type specifically excluded by section 552.137(c). However, you have also marked web addresses that do not constitute e-mail addresses subject to section 552.137. Therefore, except for the web addresses, a representative sample of which we have marked for release, the department must withhold the e-mail addresses you have marked in accordance with section 552.137, unless the department receives consent for their release.

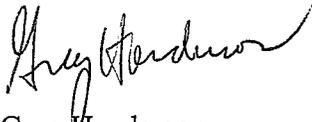
In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must also withhold the information you have marked under section 552.136 of the Government Code. Lastly, with the exception of the web addresses, a representative sample of which we have marked for release, the department must withhold the e-mail addresses you have marked under section 552.137 of the Government Code, unless the department receives consent for their release. The remaining information must be released to the requestor.

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,

A handwritten signature in cursive script, appearing to read "Greg Henderson".

Greg Henderson
Assistant Attorney General
Open Records Division

GH/jb

Ref: ID# 333888

Enc. Submitted documents

c: Requestor
(w/o enclosures)