



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 13, 2009

Mr. Gregory Alicie
Open Records Specialist
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2009-09576

Dear Mr. Alicie:

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# 348873.

The Baytown Police Department (the "department") received a request for case number 2009-14927. You claim that some of the requested information is excepted from disclosure under sections 552.130 and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You raise section 552.130 of the Government Code for the information you have highlighted in pink. Section 552.130 excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. We agree that the pink-highlighted information is subject to section 552.130. We have marked some additional information that is also subject to section 552.130. We note, however, that because this exception protects personal privacy, the requestor may have a right of access to the motor vehicle record information at issue pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning self).¹ Thus, if the requestor

¹Section 552.023(a) provides that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

is acting as her spouse's authorized representative or has an ownership interest in the vehicle, the marked information may not be withheld from her pursuant to section 552.130. *See* Gov't Code § 552.023 (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). However, if the requestor is not her spouse's authorized representative or does not have an ownership interest in the vehicle, the marked information must be withheld pursuant to section 552.130 of the Government Code.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act.² Therefore, the department may withhold the social security numbers you have highlighted in green, as well as the social security number we have marked, under section 552.147. However, if the requestor is the authorized representative of her spouse, she has a right of access to his social security number and it must be released to her. *See generally id.* § 552.023(b).

We note that the remaining records contain information that is subject to section 552.101 of the Government Code.³ Section 552.101 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 if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). 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). The department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, if the requestor is acting as her spouse's authorized representative or if she has an

²We note that 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.

³The Office of the Attorney General will raise a mandatory exception like section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

ownership interest in the vehicle, the information at issue may not be withheld from her pursuant to section 552.101. *See* Gov't Code § 552.023.

In summary, if the requestor does not have a right of access to the information pursuant to section 552.023 of the Government Code, then the department (1) must withhold the marked information under sections 552.101 and 552.130 of the Government Code; (2) may withhold the social security numbers you have highlighted in green, as well as the social security number we have marked, under section 552.147 of the Government Code; and (3) must release the remaining information to the requestor. If the requestor has a right of access to the information pursuant to section 552.023 of the Government Code, then the department may withhold the social security numbers highlighted in green under section 552.147 of the Government Code, but must release the remaining information 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 348873

Enc. Submitted documents

c: Requestor
(w/o enclosures)