



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 20, 2009

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2009-16565

Dear Mr. Mann:

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# 361875 (GCA09-0691).

The Garland Police Department (the "department") received a request for incident report number 2009R016697. You state the department has provided some of the requested information to the requestor. You claim portions of the submitted incident report are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert the information you have marked in green is protected under section 552.130 of the Government Code, which 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). Upon review, we agree the Texas license plate numbers, vehicle identification numbers, license plate registration year, and license plate type you have marked, as well as the additional license plate type we have marked, are generally excepted under section 552.130. We note, however, section 552.130 protects privacy interests. In this instance, the request is from an insurance company that indicates it may be an authorized representative of the owner of at least one of the vehicles at issue. Thus, the requestor may have a right of access under section 552.023 to some or all of the marked information. *Id.* § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds information is

considered confidential under privacy principles). To the extent the requestor is an authorized representative of the owner or owners whose vehicle information is at issue, the requestor has a right of access under section 552.023 to the marked Texas motor vehicle record information, and the information may not be withheld under section 552.130. *Id.* § 552.023(a). To the extent the requestor is not an authorized representative of the vehicle owner or owners, the requestor does not have a right of access to the marked information, and the department must withhold this information under section 552.130 of the Government Code.¹

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 if it (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 establish the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. See Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). You have marked in blue the portion of the remaining information you claim is protected by common-law privacy. Upon review, we find the prescription medication name you have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, this information must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, if the requestor is not an authorized representative of the owner or owners whose vehicle information is at issue, the department must withhold the marked Texas motor vehicle record information under section 552.130 of the Government Code. The department must withhold the marked prescription medication name under section 552.101 of the Government Code in conjunction with common-law privacy. 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,

¹As our ruling for this information is dispositive, we need not address your remaining argument against disclosure for a portion of this information.

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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Leah B. Wingerson".

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 361875

Enc. Submitted documents

c: Requestor
(w/o enclosures)