



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 5, 2010

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2010-00106

Dear Mr. Phillips:

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# 366134 (Fort Worth PIR No. 0118-10).

The City of Fort Worth (the "city") received a request for the requestor's personnel file. You state you will release most of the requested information. We note you have redacted information that reveals whether current and former city employees have family members.¹ You claim some of the remaining requested information is excepted from disclosure under section 552.101 of the Government Code.² 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. This section encompasses the doctrine of 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). Personal financial information that relates only to an individual ordinarily satisfies the first element of the common-law privacy test, but the public

¹Section 552.024(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, information relating to an employee's or official's or former employee's or official's home address, home telephone number, or social security number, or that reveals whether the person has family members, if the person chooses not to allow public access to the information.

²Although you initially raised section 552.130 of the Government Code, you have not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume that you have withdrawn this exception. See Gov't Code §§ 552.301, .302.

has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 600 at 9-12 (1992) (identifying public and private portions of certain state personnel records), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history), 523 at 4 (1989) (noting distinction under common-law privacy between confidential background financial information furnished to public body about individual and basic facts regarding particular financial transaction between individual and public body), 373 at 4 (1983) (determination of whether public's interest in obtaining personal financial information is sufficient to justify its disclosure must be made on case-by-case basis). Upon review, we find that some of the submitted information constitutes personal financial information that is highly intimate or embarrassing and not of legitimate public interest. Therefore, the city must withhold the information we have marked pursuant to section 552.101 in conjunction with common-law privacy. However, we find you have failed to demonstrate that any of the remaining information is highly intimate or embarrassing information of no legitimate public interest. Accordingly, the city may not withhold any of the remaining information under section 552.101 on the basis of common-law privacy. As you raise no further exceptions to disclosure, the remaining information must be released to the requestor.³

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

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

³The requestor has a special right of access to some of the information being released in this instance. *See* Gov't Code § 552.023(a). Because such information is confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

Ref: ID# 366134

Enc. Submitted documents

cc: Requestor
(w/o enclosures)