



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 31, 2010

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

OR2010-04541

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# 375044 (City of Fort Worth PIR No. 1726-10).

The City of Fort Worth (the "city") received a request for information pertaining to a specified incident report. You state that you are withholding social security numbers under section 552.147 of the Government Code.¹ You claim that a portion of the requested information is not subject to the Act and that portions of the remaining requested information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered your arguments and reviewed the submitted information.

You assert the information in Exhibit C is not subject to the Act because the documents were obtained pursuant to a grand jury subpoena. The judiciary is expressly excluded from the requirements of the Act. Gov't Code § 552.003(1)(B). This office has determined that a grand jury, for purposes of the Act, is a part of the judiciary and is, therefore, not subject to the Act. *See* Open Records Decision No. 411 (1984). Further, records kept by another person or entity acting as an agent for a grand jury are considered to be records in the constructive possession of the grand jury and, therefore, are not subject to the Act. *See* Open

¹Section 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. *See* Gov't Code § 552.147(b).

Records Decisions Nos. 513 (1988), 398 (1983); *but see* ORD 513 at 4 (defining limits of judiciary exclusion). You state the information in Exhibit C was obtained pursuant to a grand jury subpoena and is being held by the city as an agent of the grand jury. Based on your representations and our review, we find the information in Exhibit C is in the grand jury's constructive possession and is therefore not subject to the Act.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information made confidential by other statutes. Gov't Code § 552.101. Section 552.101 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 demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *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 intimate and embarrassing. *See* Open Records Decision No. 545 (1990). Upon review, we find the information you have marked, as well as the additional information we have marked, is highly intimate or embarrassing and not of legitimate public concern. Accordingly, the city must withhold the marked information under section 552.101 in conjunction with common-law privacy.

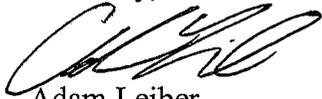
You state the city has redacted Texas motor vehicle record information under section 552.130 of the Government Code pursuant to the previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You seek to withhold additional motor vehicle record information, which you state lies beyond the scope of the previous determinations. Section 552.130 of the Government Code excepts from disclosure information that relates to "a motor vehicle operator's or driver's license [or] motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a)(1), (2). Upon review, we agree the city must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code.

In summary, we find the information in Exhibit C is not subject to the Act. The city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.130 of the Government Code. 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, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 375044

Enc. Submitted documents

c: Requestor
(w/o enclosures)