



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 2, 2010

Mr. Brian Riemenschneider
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2010-07967

Dear Mr. Riemenschneider:

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# 381328 (ORA# 10-0583).

The Texas Department of Public Safety (the "department") received a request for information regarding Irving Holdings, Inc.'s ("Irving") certification for self-insurance. You state you have made some of the requested information available to the requestor. Although you raise section 552.110 of the Government Code as a possible exception to disclosure for portions of the submitted information, you make no argument as to whether the submitted information is excepted from disclosure under that section. Instead, you state, and provide documentation showing, you have notified Irving of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (statutory predecessor to section 552.305 allows a governmental body to rely on an interested third party to raise and explain the applicability of the exception to disclosure in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Irving has not submitted to this office any reasons explaining why the submitted information should not be released. We therefore have no basis for concluding any of the submitted information constitutes proprietary information

of Irving, and the department may not withhold any portion of the submitted information on the basis of any proprietary interests Irving may have in the information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ Gov't Code § 552.101. This section encompasses 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. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally protected by common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit). Upon review of the submitted information, we find the information we have marked under section 552.101 in conjunction with common-law privacy is highly embarrassing and is not of legitimate concern to the public. Accordingly, we will withhold the marked information under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator's license, title, or registration issued by a Texas agency is excepted from public disclosure under section 552.130(a)(1), (2). Upon review, we find portions of the remaining information consist of Texas motor vehicle record information. Accordingly, the department must withhold the Texas license plate and vehicle identification numbers we have marked under section 552.130 of the Government Code.

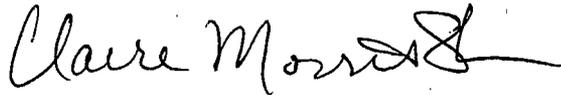
In summary, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. The department must withhold the Texas license plate and vehicle identification numbers we have marked under section 552.130 of the Government Code. The remaining information must be released.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jb

Ref: ID# 381328

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Jackie Bewley
President
Irving Holdings Inc.
2515 Irving Boulevard
Dallas, Texas 75207
(w/o enclosures)