



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 29, 2010

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

OR2010-09579

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# 384535 (City of Fort Worth PIR No. W000225).

The City of Fort Worth (the "city") received a request for payroll records pertaining to a named city police employee for a specified time period. You claim that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

We note you have redacted portions of the submitted information pursuant to section 552.117(a)(2) of the Government Code. Section 552.117(a)(2) excepts from disclosure the current and former home addresses and telephone numbers, social security numbers, and family member information regarding a peace officer regardless of whether the officer elected under section 552.024 or 552.1175 of the Government Code to keep such information confidential. Gov't Code § 552.117(a)(2). The previous determination issued in Open Records Decision No. 670 (2001) authorizes the city to withhold the home addresses, telephone numbers, personal cellular phone and pager numbers, social security

---

<sup>1</sup>We note you have redacted bank account numbers under section 552.136 of the Government Code pursuant to the previous determination issued in Open Records Decision No. 684 (2009). See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

numbers, and family member information of its peace officers under section 552.117(a)(2) without the necessity of requesting an attorney general decision. Although you have redacted some of the submitted information under section 552.117(a)(2), the remaining portions of the documents at issue contain other information subject to section 552.117(a)(2). We have marked the additional information that must be withheld under section 552.117(a)(2).<sup>2</sup>

You raise section 552.101 of the Government Code for portions of the remaining information. Section 552.101 excepts "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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *See 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 protected by common-law privacy. *See Open Records Decision Nos. 600 (1992) (employee's designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history).* Upon review, we find some of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Thus, the city must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. However, we find you have failed to demonstrate how the remaining information you have highlighted is highly intimate or embarrassing and not of legitimate public concern. Therefore, the remaining information at issue is not confidential under common-law privacy, and the city may not withhold it under section 552.101 on that basis.

In summary, the city must withhold the information we have marked under section 552.117(a)(2) of the Government Code. The city must withhold the information we have marked 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.

---

<sup>2</sup>As our ruling is dispositive of this information, we need not address your argument against its disclosure.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requester. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](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,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/tp

Ref: ID# 384535

Enc. Submitted documents

c: Requestor  
(w/o enclosures)