



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 2, 2010

Ms. Judith N. Benton
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2010-11577

Dear Ms. Benton:

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# 393664 (Waco Reference #: LGL-10-902).

The Waco Police Department (the "department") received a request for case number 06-10514. You claim some of the submitted information is excepted from disclosure under sections 552.130 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information contains an accident report form completed pursuant to chapter 550 of the Transportation Code. 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 statute.¹ Gov't Code § 552.101. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and

¹The Office of the Attorney General will raise a mandatory exception like section 552.101 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(3) specific location of the accident. *Id.* § 550.065(c)(4). The requestor has not provided the department with two of the three requisite pieces of information specified by the statute. Accordingly, the department must withhold the submitted accident report form under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.²

Section 552.101 also 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). 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 Nos. 545 (1990). The department must withhold the personal financial information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Next, you raise section 552.130 of the Government Code for portions of the remaining information. Section 552.130 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). We note that section 552.130 protects personal privacy. In this instance, the requestor has a right of access under section 552.023 to his own Texas motor vehicle record information, and it may not be withheld from him pursuant to section 552.130. *See generally id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). However, the department must withhold the remaining Texas motor vehicle record information you have marked, which does not pertain to the requestor, and the additional information we have marked, under section 552.130 of the Government Code.³

In summary, the department must the submitted accident report form under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. The department also must withhold the personal financial information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The

²As our ruling is dispositive, we do not address your arguments under sections 552.130 and 552.136 for portions of this information.

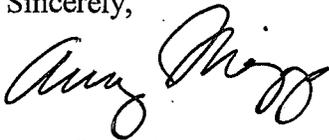
³We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number and a Texas license plate number, under section 552.130 of the Government Code without the necessity of requesting an attorney general decision.

department must withhold the Texas motor vehicle record information you have marked which does not pertain to the requestor, and the additional information we have marked, pursuant to section 552.130 of the Government Code. The remaining information must be released to the requestor.⁴

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/tp

Ref: ID# 393664

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴We note that because the requestor has a special right of access to some of this information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.