



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 13, 2010

Ms. Susan Camp-Lee
Sheets & Crossfield, PC
309 East Main Street
Round Rock, Texas 78664-5246

OR2010-13839

Dear Ms. Camp-Lee:

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# 393324.

The City of Round Rock (the "city"), which you represent, received three requests from two different requestors for notes pertaining to report number 10-61891. You state some of the requested information has been released to each requestor. You state you are redacting certain Texas driver's license numbers and license plate numbers from each requestor pursuant to Open Records Decision No. 684 (2009).¹ You also state you are redacting a social security number pursuant to section 552.147(b) of the Government Code.² You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

¹We 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 Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

²Section 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. *See* Gov't Code § 552.147(b).

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. Section 552.101 encompasses the doctrine of common-law privacy. Common-law privacy 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The doctrine of common-law privacy protects a compilation of an individual's criminal history, which is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. This office has also found personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under 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 history). We note common-law privacy protects the interests of individuals, not those of corporate and other business entities. *See* Open Records Decision Nos. 620 (1993) (corporation has no right to privacy), 192 (1978) (right to privacy is designed primarily to protect human feelings and sensibilities, rather than property, business, or other pecuniary interests); *see also United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950) (cited in *Rosen v. Matthews Constr. Co.*, 777 S.W.2d 434 (Tex. App.—Houston [14th Dist.] 1989), *rev'd on other grounds*, 796 S.W.2d 692 (Tex. 1990)) (corporation has no right to privacy). Upon review, we find portions of the information you have marked are highly intimate or embarrassing and not of legitimate public concern. Therefore, the city must withhold the information we have marked from the first requestor under section 552.101 of the Government Code in conjunction with common-law privacy. However, in this instance, the second requestor is the authorized representative of an individual who may have a right of access to some of the private information we have marked under section 552.023 of the Government Code. Section 552.023 of the Government Code states a person or a person's authorized representative has a special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect the person's privacy interest. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles). Accordingly, to the extent the individual at issue has a right of access to the private information we have noted, it may not be withheld from the second requestor under section 552.101 in conjunction with common-law privacy. Conversely, if the individual at issue does not have a right of access to the private information we have noted, that information must be withheld

from the second requestor under section 552.101 in conjunction with common-law privacy. In either case, the city must withhold the private information to which the second requestor does not have a potential right of access under section 552.101 in conjunction with common-law privacy. Additionally, we find the remaining information you have marked pertains to a business entity and not to an individual. Thus, you have failed to establish the remaining information at issue is highly intimate or embarrassing information pertaining to an individual. Accordingly, the city may not withhold any of the remaining information at issue under section 552.101 of the Government Code in conjunction with common-law privacy.

You also claim section 552.130 of the Government Code for portions of the remaining information. Section 552.130 provides 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). Upon review, we find portions of the remaining information consist of Texas motor vehicle record information. Thus, the Texas motor vehicle record information, which we have marked, must be withheld from the first requestor under section 552.130 of the Government Code.

As noted above, the second requestor is the authorized representative of an individual who may have a right of access to portions of the marked Texas motor vehicle record information. Gov't Code § 552.023. We note section 552.130 is based on privacy principles. Thus, to the extent the individual at issue has a right of access to the Texas motor vehicle record information we have noted, the city may not withhold this information from the second requestor. Conversely, to the extent the individual at issue does not have a right of access to the Texas motor vehicle record information we have noted, the city must withhold this information from the second requestor under section 552.130 of the Government Code. In either case, the city must withhold the information we have marked to which the second requestor does not have a potential right of access under section 552.130 of the Government Code.

In summary, the city must withhold from the first requestor: (1) the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; and (2) the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The city must withhold from the second requestor: (1) the marked information under section 552.101 of the Government Code in conjunction with common-law privacy, to the extent the individual at issue does not have a right of access to the private information we have noted; and (2) the marked Texas motor vehicle record information under section 552.130 of the Government Code, to the extent the individual at issue does not have a right of access to the Texas motor vehicle record information we have noted. 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,

A handwritten signature in cursive script, appearing to read "Claire Morris Sloan", with a long horizontal flourish extending to the right.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/tp

Ref: ID# 393324

Enc. Submitted documents

c: Requestors
(w/o enclosures)