



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 17, 2010

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2010-19017

Dear Ms. Byles:

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# 403494 (Fort Worth PIR#W004054).

The City of Fort Worth (the "city") received a request for the requestor's housing complaint file, including all TEAPOT entries for the fiscal year. You state you will release some information to the requestor. Although you take no position as to the public availability of the submitted information, you state the release of the submitted information may implicate the proprietary interests of a third party, the United States Department of Housing and Urban Development ("HUD"). Accordingly, you inform us you notified HUD of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). As of the date of this letter, we have not received comments from HUD explaining why the requested information should not be released. We have reviewed the submitted information. We have also received and considered comments from the requestor. *See id.*

Initially, we note a portion of the submitted information was created after the request was received. This information, which we have marked, is not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the city is not required to release non-responsive information in response to this request.

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.<sup>1</sup> Section 552.101 encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). 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. *See id.* at 683. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See Open Records Decision Nos.* 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find that portions of the information at issue are highly intimate or embarrassing and not of legitimate public concern. Thus, the city must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

We note the information at issue contains personal e-mail addresses. Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See Gov’t Code* § 552.137(a)-(c). The e-mail addresses we have marked are not specifically excluded by section 552.137(c). As such, the e-mail addresses we have marked must be withheld under section 552.137, unless the owners of the addresses have affirmatively consented to their release.<sup>2</sup> *See id.* § 552.137(b).

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the personal e-mail addresses we have marked under section 552.137, unless the owners of the addresses have affirmatively consented to their release. The remaining information must be released to this requestor.<sup>3</sup>

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

<sup>2</sup>Open Records Decision No. 684 (2009) serves as a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including e-mail addresses of members of the public under section 552.137, without the necessity of requesting an attorney general decision.

<sup>3</sup>We note the information being released in this instance contains confidential information to which the requestor has a right of access. *See Gov’t Code* § 552.023(a). If the city receives another request for this same information from a different requestor, then the city should again seek a decision from this office.

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](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,



Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 403494

Enc. Submitted documents

c: Requestor  
(w/o enclosures)