



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 14, 2011

Ms. Leticia Garza
City Clerk & Public Information Officer
City of Baytown
P.O. Box 424
Baytown, Texas 77522

OR2011-00748

Dear Ms. Garza:

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# 406101 (Baytown PIR# 3071).

The City of Baytown (the "city") received a request for all documents from an investigation of a named former city employee. You state the city will release all responsive records for which no exceptions are claimed. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

We first address your claim the submitted information is excepted from disclosure under section 552.102 of the Government Code. Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." *Id.* § 552.102(a). Upon review, we find none of the submitted information is excepted under section 552.102(a) of the Government Code. Accordingly, none of the submitted information may be withheld on that basis.

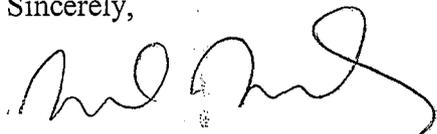
Next, we turn to your claim under section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses the doctrine of common-law privacy, which protects 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). The submitted information pertains to the city's investigation of the work performance of the named employee and the circumstances surrounding her termination. This office has stated in numerous opinions that the public has a legitimate interest in knowing the reasons for the dismissal of public employees and the circumstances surrounding their termination. Open Records Decision No. 444 at 6 (1986); see Open Records Decision No. 423 at 2 (1984) (scope of public employee privacy is narrow). Similarly, the work behavior and performance of a public employee and the conditions for his or her continued employment are generally matters of legitimate public interest not protected by the common-law right of privacy. See Open Records Decision Nos. 470 at 4 (1987) (public has legitimate interest in job performance of public employees), 438 at 4 (1986) (public has legitimate interest in details of accusation of misconduct against city supervisor), 405 at 2-3 (1983) (public has interest in manner in which public employee performs his job), 329 at 2 (1982) (information relating to complaints against public employees and discipline resulting therefrom is not protected under former section 552.101), 208 at 2 (1978) (information relating to complaint against public employee and disposition of the complaint is not protected under either the constitutional or common-law right of privacy). Upon review, we conclude there is a legitimate public interest in the submitted information, and none of it may be withheld under section 552.101 of the Government Code on the basis of common-law privacy. As you raise no other exceptions to disclosure, the submitted 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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/tf

Ref: ID# 406101

Enc. Submitted documents

c: Requestor
(w/o enclosures)