



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 27, 2011

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

OR2011-01424

Dear Ms. Sangsvang:

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# 407388 (PIR No. W004841).

The City of Fort Worth (the "city") received a request for information related to a specified motor vehicle accident. You state you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to the previous determinations issued to the city. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). Further, you state you have redacted social security numbers under section 552.147 of the Government Code.<sup>1</sup> You claim that the submitted information is excepted from disclosure under sections 552.101, 522.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection,

---

<sup>1</sup>Section 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 under the Act. Gov't Code § 552.147(b).

investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You have submitted an affidavit from the Tarrant County District Attorney’s Office (the “district attorney”) representing the submitted information pertains to a criminal prosecution that resulted in a conviction and a sentence of fifteen years. The district attorney states the defendant has not yet exhausted his state and/or federal post conviction remedies. Based on the affidavit, we understand you to argue the criminal prosecution at issue is still pending because the defendant might appeal the sentence. However, we note that a mere chance of an appeal is insufficient to demonstrate that the release of the submitted information will interfere with law enforcement efforts. Thus, the city may not withhold any of the submitted information under section 552.108(a)(1) of the Government Code.

You claim that some of the submitted information must be withheld 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.” Gov’t Code § 552.101. This section encompasses the doctrine of common-law privacy. Common-law privacy 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. *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 established. *Id.* at 681-82.

The type of information considered highly intimate or 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. *Id.* at 683. This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate or embarrassing. *See Open Records Decision Nos. 600 at 9-10 (1992), 523 at 3-4 (1989).*

Upon review, we find some of the submitted information is highly intimate or embarrassing and not of legitimate public concern. Therefore, the city must withhold the information you have marked, and the additional information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

You seek to withhold some of the remaining information pursuant to section 552.130 of the Government Code. This section excepts from public disclosure information that relates to a Texas motor vehicle title or registration. Gov’t Code § 552.130(a)(2). Thus, the city must withhold the Texas motor vehicle record information you have marked under

section 552.130. We have marked some additional information that must be withheld under section 552.130.

In summary, the city must withhold the information you have marked, and the additional information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The city also must withhold the Texas motor vehicle record information you have marked, and the additional information we have marked, under section 552.130 of the Government Code. 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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 407388

Enc. Submitted documents

c: Requestor  
(w/o enclosures)