



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 31, 2011

Mr. Robert E. Reyna  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283

OR2011-04469

Dear Mr. Reyna:

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# 413114 (COSA File No. 2010-7433).

The City of San Antonio (the "city") received a request for all reports concerning a specified incident. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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, which 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 types 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. Upon review, we find the information we have marked is highly intimate or embarrassing and is of no legitimate concern to the public. Accordingly, the information

we have marked must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. Upon further review, we find the remaining information is not highly intimate or embarrassing information of no legitimate public interest. Accordingly, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

We note the remaining information in this instance contains information that may be subject to sections 552.130 and 552.136 of the Government Code.<sup>1</sup> Section 552.130 of the Government Code 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). The purpose of section 552.130 is to protect the privacy interests of individuals. We note, however, the requestor appears to represent the insurance provider of the owner of the vehicle listed in the submitted information. Thus, if the requestor represents the insurer of the owner of this vehicle, then the requestor has a right of access to that information as the vehicle owner's authorized representative. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, if the requestor is the authorized representative of the vehicle owner, then the marked Texas motor vehicle record information may not be withheld from the requestor under section 552.130. If the requestor is not the authorized representative of the vehicle owner, then the city must withhold all of the marked Texas motor vehicle record information from the requestor under section 552.130 of the Government Code.

Section 552.136(b) states that "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined an insurance policy number is an access device for purposes of section 552.136. Section 552.136 also protects privacy interests. As previously noted, the requestor may be acting as the authorized representative of the insured. Thus, to the extent the requestor is acting as the insured's authorized representative, the city must release the insured's insurance policy number. *See id.* § 552.023. If the requestor is not acting as the insured's authorized representative, the city must withhold the insurance policy number we have marked pursuant to section 552.136 of the Government Code.

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. To the extent the

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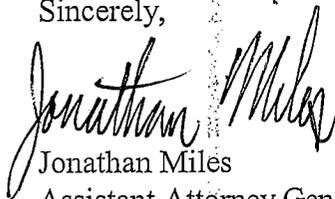
<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

requestor is not acting as the personal representative of the individual whose information is at issue, the city must withhold the Texas motor vehicle information we have marked under section 552.130 of the Government Code and the insurance policy number we have marked under section 552.136 of the Government Code.<sup>2</sup> 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,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 413114

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note this office 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, and insurance policy numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.