



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 5, 2011

Ms. LeAnn M. Quinn  
City Secretary  
City of Cedar Park  
600 North Bell Boulevard  
Cedar Park, Texas 78613.

OR2011-06222

Dear Ms. Quinn:

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# 416531 (Reference No. 11-337).

The City of Cedar Park (the "city") received a request for information related to a specified address and two named individuals. You state the city has redacted social security numbers pursuant to section 552.147(b) of the Government Code.<sup>1</sup> You claim that some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, 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 state the information in Exhibit C relates to a pending criminal case. Based upon this representation, we conclude that the release of the information in Exhibit C would interfere with the detection, investigation, or

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<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.

prosecution of crime. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the city may withhold the information in Exhibit C under section 552.108(a)(1) of the Government Code.<sup>2</sup>

You claim that some of the submitted information in Exhibit B is excepted from public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. Section 552.101 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 common-law right of 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 type of information considered 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 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). Whether information is subject to a legitimate public interest and therefore not protected by common-law privacy must be determined on a case-by-case basis. See Open Records Decision No. 373 (1983).

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

You state you have redacted information under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>3</sup> We note the remaining information in Exhibit B contains information not subject to Open Records Decision No. 684. Therefore,

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<sup>2</sup>As we are able to make this determination, we do not address your remaining claims for this information.

<sup>3</sup>Open Records Decision No. 684 was issued by this office as 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. See Open Records Decision No. 684 at 8 (2009).

we will address the applicability of section 552.130 to 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 a portion of the remaining information consists of Texas motor vehicle record information. Accordingly, the city must withhold the information you marked for redaction, as well as the additional Texas motor vehicle record information we have marked, under section 552.130 of the Government Code.

In summary, the city may withhold the information in Exhibit C under section 552.108(a)(1) of the Government Code. The city must withhold the information you have marked in Exhibit B pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. The city also must withhold the information you marked for redaction, as well as the additional Texas motor vehicle record information we have marked, under section 552.130 of the Government Code. The remaining 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](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/em

Ref: ID# 416531

Enc. Submitted documents

c: Requestor  
(w/o enclosures)