



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 16, 2011

Ms. Cynthia Villarreal-Reyna  
Section Chief, Agency Counsel  
Legal & Regulatory Affairs  
Texas Department of Insurance  
P.O. Box 149104 Mail Code 110-1A  
Austin, Texas 78714-9104

OR2011-08574

Dear Ms. Villarreal-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# 421211 (TDI # 114128).

The Texas Department of Insurance (the "department") received a request for licensing, regulatory, and enforcement information relating to a named insurance company during a specified time interval. You state the department is withholding Texas motor vehicle information, insurance policy numbers, and e-mail addresses pursuant to the previous determinations issued under sections 552.130, 552.136, and 552.137 of the Government Code in Open Records Decision No. 684(2009).<sup>1</sup> You claim other responsive information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted. We assume the department has released any other information that would be responsive to this request, to the extent such information existed when the department received the request. If not, then

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<sup>1</sup>Open Records Decision No. 684 is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including a Texas driver's license number, a copy of a Texas driver's license, a Texas license plate number, the portion of a photograph that reveals a Texas license plate number, and the portion of any video depicting a discernible Texas license plate number under section 552.130 of the Government Code; an insurance policy number under section 552.136 of the Government Code; and an e-mail address of a member of the public under section 552.137 of the Government Code. See ORD 684 at 14.

the department must release any such information immediately.<sup>2</sup> See Gov't Code §§ 552.221, .301, .302; Open Records Decision No. 664 (2000).

We first note, and you acknowledge, the department did not comply with its ten-business-day deadline under section 552.301(b) of the Government Code in requesting this decision. See Gov't Code § 552.301(a)-(b). The department also failed to comply with its fifteen-business-day deadline under section 552.301(e). See *id.* § 552.301(e). The submitted information is therefore presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold any of the information. See *id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.—Austin 1990, no writ). This statutory presumption can generally be overcome when information is confidential by law or third-party interests are at stake. See Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Therefore, we will address your claim under section 552.101 of the Government Code, whose applicability can provide a compelling reason for non-disclosure.

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. You claim section 552.101 in conjunction with common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Common-law privacy encompasses certain types of personal financial information. See Open Records Decision Nos. 600 (1992) (personal financial choices concerning insurance are generally confidential), 545 (1990) (common-law privacy protects personal financial information not related to a financial transaction between an individual and a governmental body), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (common-law privacy protects asset and income source information).

You contend financial information relating to a corporate entity is private under section 552.101. We note common-law privacy protects the interests of individuals, not those of business and governmental entities. See Open Records Decision Nos. 620 (1993) (corporation has no right to privacy), 192 (1978) (right to privacy is designed primarily to protect human feelings and sensibilities, rather than property, business, or other pecuniary interests); see also *United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950) (cited in *Rosen v. Matthews Constr. Co.*, 777 S.W.2d 434 (Tex. App.—Houston [14th Dist.] 1989), *rev'd on other grounds*, 796 S.W.2d 692 (Tex. 1990)) (corporation has no right to privacy).

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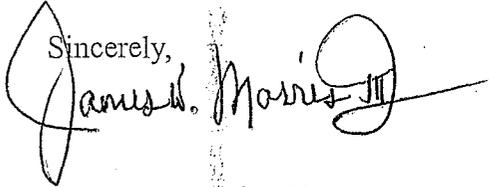
<sup>2</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

We therefore conclude the department may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy. As you claim no other exception 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](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,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a large, looped initial "J" and a long horizontal stroke extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 421211

Enc: Submitted documents

c: Requestor  
(w/o enclosures)