



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 8, 2011

Mr. David K. Walker
County Attorney
Montgomery County
207 West Phillips, 1st Floor
Conroe, Texas 77301

OR2011-11391

Dear Mr. Walker:

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# 426290 (Montgomery Co. ORR# 2011-2342).

The Montgomery County Sheriff's Department (the "sheriff") received a request for all information regarding the requestor's property at a specified address during a specified time period. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions 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 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. Upon review we determine the information we have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, the sheriff must withhold the information we have marked pursuant to section 552.101 of the Government

Code in conjunction with common-law privacy. However, we determine you have failed to demonstrate that the remaining information you have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, the sheriff may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 provides information relating to a motor vehicle operator's or driver's license or permit, motor vehicle title, or registration issued by an agency of Texas, another state, or another country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)). We determine the sheriff must withhold the driver's license numbers and expiration years you have marked under section 552.130 of the Government Code.¹ However, a portion of the information you have marked is not motor vehicle record information and may not be withheld under section 552.130. As you raise no further exceptions against its disclosure, the sheriff must release this information, which we have marked.

Section 552.147 of the Government Code excepts from disclosure the social security number of a living person. Gov't Code § 552.147. Upon review, we determine the sheriff may withhold the social security numbers you have marked under section 552.147 of the Government Code.²

In summary, the sheriff: (1) must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy; (2) must withhold the driver's license numbers and expiration years you have marked under section 552.130 of the Government Code; and (3) may withhold the social security numbers you have marked under section 552.147 of the Government Code. The sheriff must release the remaining information.

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.

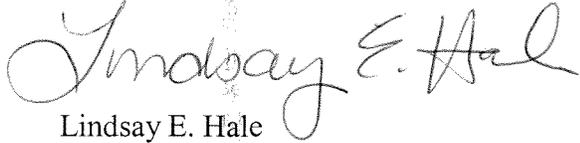
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at

¹We 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 numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

²We note 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).

(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 cursive script that reads "Lindsay E. Hale". The signature is written in black ink and is positioned above the typed name.

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/em

Ref: ID# 426290

Enc. Submitted documents

c: Requestor
(w/o enclosures)