



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 12, 2011

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

OR2011-11654

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# 426736 (Cedar Park Reference Number 11-588).

The City of Cedar Park (the "city") received a request for three specified police reports. You claim the requested information is excepted from disclosure under sections 552.101 and 552.130 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 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 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. Upon review, we find the city must generally withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

However, we note the requestor identifies herself as the wife of the individual whose information is at issue, and she might be acting as his authorized representative. If the requestor is acting as her husband's authorized representative, then she has a right of access to his private information, and the city may not withhold this information from her on the basis of common-law privacy. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent 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).

You state the city has redacted information under section 552.130 of the Government Code pursuant to the previous determination issued by this office in Open Records Decision No. 684 (2009).<sup>1</sup> Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's or driver's license issued by any agency of this state, or another state or country is excepted from public release. Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(1)). Accordingly, the city must generally withhold the Texas driver's license number you have marked under section 552.130 of the Government Code. However, the marked driver's license number belongs to the requestor's husband, and, as noted above, the requestor may be her husband's authorized representative. *See* Gov't Code § 552.023(b). Thus, to the extent the requestor is acting as her husband's authorized representative, she has a right of access to his driver's license number, and it may not be withheld from her under section 552.130.

In summary, if the requestor is not acting as her husband's authorized representative, the city must withhold the information you have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy and pursuant to section 552.130 of the Government Code. In that instance, the city must release the remaining information to the requestor. If the requestor is acting as her husband's authorized representative, the city must release the requested information in its entirety.<sup>2</sup>

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.

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<sup>1</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, without the necessity of requesting an attorney general decision.

<sup>2</sup>Because the requestor may have a right of access to information which would be confidential with respect to the general public, if the city receives another request for this information, the city must again seek a ruling from this office.

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 blue ink that reads "Tamara Wilcox". The signature is fluid and cursive, with the first name being more prominent.

Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 426736

Enc. Submitted documents

c: Requestor  
(w/o enclosures)