ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 22, 2011

Ms. Melanie Barton
Assistant District Attorney
Dallas County
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2011-13750

Dear Ms. Barton:

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# 430674.

The Dallas County Tax Office (the "county") received a request for a copy of all the title hearing requests made by a named county commissioner from January 2001 to June 2011, including the county's rulings.[1] You claim all or some of the requested information is excepted from disclosure under section 552.130 of the Government Code. We also understand you to claim some of the requested information is excepted from disclosure under sections 552.101, 552.117, and 552.136 of the Government Code.[2] We have considered the exceptions you claim and reviewed the submitted representative sample of information.[3]

We note the submitted information may have been the subject of a previous request by the county for a decision, in response to which this office issued Open Records Letter

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[1]You provide documentation showing the county asked for and received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

[2]We note sections 552.101, 552.117, and 552.136 are mandatory exceptions to disclosure a governmental body may not waive. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

[3]We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

No. 2011-13205 (2011). We are unaware of any change in the law, facts, and circumstances on which the previous ruling is based. Therefore, to the extent the submitted information was the subject of Open Records Letter No. 2011-13205, the county must withhold or release any such information in accordance with the previous ruling. *See* Gov't Code § 552.301(f); Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)). To the extent the submitted information was not the subject of the previous ruling, we will address the county's exceptions to disclosure.

Section 552.130(a)(2) of the Government Code provides that information relating to a motor vehicle title or registration issued by a Texas agency, or an agency of another state or 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)(2)). You contend all the submitted information falls within the scope of section 552.130. Alternatively, you contend this exception is applicable to portions of the information. Having considered your arguments and reviewed the information at issue, we conclude the county must withhold the motor vehicle information we have marked under section 552.130 of the Government Code. We conclude the remaining information does not fall within the scope of section 552.130 and may not be withheld under this exception.

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. This exception encompasses 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). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *See id.* at 681-82. You indicate the remaining information contains financial information that is protected under common-law privacy. Prior decisions of this office have determined that personal financial information not related to a transaction between an individual and a governmental body generally meets the first prong of the common-law privacy test. *See generally* Open Records Decision No. 600 (1992). However, there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See generally* Open Record Decision No. 545 (1990) (financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common-law privacy). Whether financial 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). In this instance, the personal financial information at issue concerns financial transactions between the named county commissioner and the county. Thus, we find there is a legitimate public interest in this information. Accordingly, the county may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former official or employee of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See* Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov't Code § 552.117(a)). Although you appear to claim section 552.117(a)(1) for the commissioner's home address, we find the county does not maintain that information in an employment context. We therefore conclude the county may not withhold that information under section 552.117 of the Government Code.

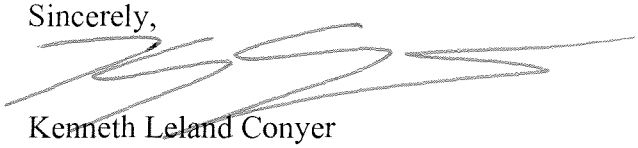
Section 552.136 of the Government Code provides that "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). You indicate portions of the remaining information are subject to section 552.136. However, you have not explained, and we cannot discern, how any of the remaining information consists of a credit card, debit card, or charge card number, or can be used to obtain money, goods, services, or another thing of value or initiate a transfer of funds. Thus, we find none of the remaining information may be withheld under section 552.136 of the Government Code.

In summary, the county must withhold or release any information that was the subject of Open Records Letter No. 2011-13205 in accordance with that decision. The county must withhold the motor vehicle information we have marked under section 552.130 of the Government Code. 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, 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eb

Ref: ID# 430674

Enc. Submitted documents

c: Requestor
(w/o enclosures)