



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 18, 2011

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2011-17057

Dear Ms. Graham:

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# 436507.

The Mesquite Police Department (the "department") received a request for all records during a specified time period pertaining to a particular address. You state the department will provide some of the requested information to the requestor. You claim portions of the submitted call for service records are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you assert the telephone numbers you have marked in the submitted call for service records are confidential under section 772.118 of the Health and Safety Code. We note this office recently issued Open Records Letter No. 2011-15075 (2011), a previous determination authorizing the department to withhold, under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code, an originating telephone number of a 9-1-1 caller furnished to the department by a 9-1-1 service supplier established in accordance with chapter 772 of the Health and Safety Code. Therefore, pursuant to Open Records Letter No. 2011-15075, the department must withhold the telephone numbers you have marked under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, facts, and circumstances have not changed, decision concludes specific, clearly delineated category of

information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests).

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 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. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision No. 545 (1990). You have marked lien information you seek to withhold under common-law privacy. Upon review, we find the lien information you have marked is highly intimate or embarrassing and is not of legitimate public concern. Thus, the department must withhold the lien information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Finally, you state the department will redact the motor vehicle record information you have marked in the remaining information under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009). This decision acts as a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. This decision, however, does not authorize governmental bodies to withhold any other type of motor vehicle title or registration information under section 552.130 of the Government Code without the necessity of requesting an attorney general decision. In this instance, in addition to Texas license plate numbers, you have marked several other types of motor vehicle title and registration information. Because Open Records Decision No. 684 does not authorize the withholding of the other types of motor vehicle title and registration information you have marked, that information may not be withheld under section 552.130 pursuant to Open Records Decision No. 684.

Section 552.130 of the Government Code provides 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)). Therefore, the department must withhold the motor vehicle title and registration information you have marked in the remaining information under section 552.130 of the Government Code.

In summary, pursuant to Open Records Letter No. 2011-15075, the department must withhold the telephone numbers you have marked under section 552.101 of the Government

Code in conjunction with section 772.118 of the Health and Safety Code. The department must withhold the lien information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle title and registration information you have marked under section 552.130 of the Government Code. The department 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 (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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 436507

Enc. Submitted documents

c: Requestor
(w/o enclosures)