



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 27, 2012

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

OR2012-01375

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# 443547.

The Mesquite Police Department (the "department") received a request for information related to a specified incident. You state some of the requested information either has been or will be released. You claim the rest of 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 information you submitted.

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 the specific types of information held to be intimate or embarrassing in *Industrial Foundation*. *See id.* at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). This office has determined that certain other types of information also are private under section 552.101. *See generally* Open Records Decision No. 659 at 4-5 (1999) (summarizing information attorney general has held to be private). We also have determined common-law privacy encompasses certain types of personal financial information. Personal financial

information related only to an individual ordinarily satisfies the first element of the common-law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 545 at 4 (1990) (attorney general has found kinds of financial information not excepted from public disclosure by common-law privacy to generally be those regarding receipt of governmental funds or debts owed to governmental entities), 523 at 4 (1989) (noting distinction under common-law privacy between confidential background financial information furnished to public body about individual and basic facts regarding particular financial transaction between individual and public body), 373 at 4 (1983) (determination of whether public's interest in obtaining personal financial information is sufficient to justify its disclosure must be made on case-by-case basis).

We agree the personal financial information you have marked is highly intimate or embarrassing and not a matter of legitimate public interest. We also conclude the personal financial and medical information we have marked is highly intimate or embarrassing and not a matter of legitimate public concern. Therefore, the department must withhold the information you have marked, along with the information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle title or registration issued by an agency of this state or another state or country. *See* Gov't Code § 552.130(a)(2). We agree the department must withhold the remaining information you have marked under section 552.130 of the Government Code.¹

In summary, the department must withhold (1) the personal financial information you have marked and the personal financial and medical information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and (2) the remaining information you have marked under section 552.130 of the Government Code.

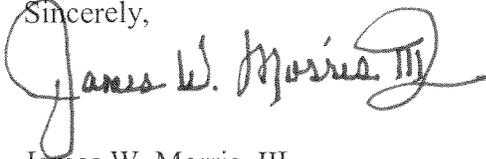
You also ask this office to issue a previous determination that would permit the department to withhold motor vehicle lien information contained in call sheets without the necessity of requesting a decision under section 552.301 of the Government Code. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (previous determinations). Having considered your request, we have determined it should be granted. Therefore, this letter ruling authorizes the department to withhold information in a call sheet that reveals the existence of a motor vehicle lien under section 552.101 of the Government Code in conjunction with common-law privacy, including (1) the date of the lien, (2) the name and address of the lien holder, and (3) the word "lien" when accompanied by the foregoing information. We note common-law privacy protects the interests of individuals, not those of corporate or other entities, and is a personal right that lapses at an individual's death. *See*

¹We note Open Records Decision No. 684 (2009) 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 license plate number under section 552.130 of the Government Code.

Open Records Decision Nos. 620 (1993), 272 (1981), 192 (1978). Therefore, this previous determination authorizes the department to withhold motor vehicle lien information only if a living individual owns an interest in the vehicle encompassed by the lien. This previous determination is not applicable to lien information pertaining to a vehicle owned entirely by a deceased individual or a public or private entity. We also note that a person or a person's authorized representative has a special right of access under section 552.023 of the Government Code to information that is protected from public disclosure by laws intended to protect the person's privacy interests. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, this previous determination is not applicable to motor vehicle lien information requested by a person or an authorized representative of a person who owns an interest in the vehicle encompassed by the lien. So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the department need not ask for a decision from this office again with respect to this type of information. *See* ORD 673 at 7-8 (listing elements of second type of previous determination under Gov't Code § 552.301(a)).

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,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a large, stylized initial "J".

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

JWM/em

Ref: ID# 443547

Enc: Submitted documents

c: Requestor
(w/o enclosures)