



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 5, 2012

Mr. David V. Overcash  
Attorney for City of Aubrey  
Wolfe, Tidwell & McCoy, LLP  
2591 Dallas Parkway, Suite 205  
Frisco, Texas 75034

OR2012-03266

Dear Mr. Overcash:

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# 448947 (City File No. C04006PIR20120109-01).

The City of Aubrey (the "city"), which you represent, received a request for information concerning a specified incident. You state some information has been released to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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. This section encompasses the common-law right to 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 met. *Id.* at 681-82. Common-law privacy protects the 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). Additionally, this office has found some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. *See Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987)*

(prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find the information we have marked in Exhibit 2 is highly intimate or embarrassing and of no legitimate public interest. Therefore, the city must withhold the marked information under section 552.101 in conjunction with common-law privacy. However, we find the remaining information you seek to withhold is not private and may not be withheld under section 552.101 on that basis.

We note portions of the remaining information are protected by section 552.130 of the Government Code.<sup>1</sup> Section 552.130 of the Government Code exempts from disclosure information that relates to a motor vehicle operator's or driver's license, title, or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1)-(2). Therefore, the city must withhold the information we have marked in Exhibit 2 under section 552.130.

In summary, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy and under section 552.130 of the Government Code. As you raise no additional exceptions to disclosure, the remaining information in Exhibit 2 must be released to the requestor.

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](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,



Misty Haberer Barham  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID # 448947

Enc. Submitted documents

c: Requestor  
(w/o enclosures)