



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 11, 2012

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
450 Cypress Creek Road
Cedar Park, Texas 78613

OR2012-07026

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# 453316 (Ref. No. 12-374).

The City of Cedar Park (the “city”) received a request for police report number 1109-0066. You state the city will release some of the responsive information. You also state the city will withhold driver’s license numbers under section 552.130(c) of the Government Code and social security numbers under section 552.147(b) of the Government Code.¹ You further state license plate numbers will be redacted pursuant to Open Records Decision No. 684 (2009).² You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

¹On September 1, 2011, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3), such as driver’s license numbers, without the necessity of seeking a decision from the attorney general. Gov’t Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *Id.* § 552.130(d), (e). Section 552.147 of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office. *See* Gov’t Code § 552.147(b).

²Open Records Decision No. 684 (2009) is a previous determination authorizing all governmental bodies to withhold ten categories of information, including Texas license plate numbers, under section 552.130(a)(2) without the necessity of requesting an attorney general decision. *See* ORD 684. We note Open Records Decision No. 684 does not apply to vehicle identification numbers or a license plate year.

prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You indicate, and have provided documentation stating, the information submitted as Exhibit C is related to a pending criminal prosecution. Based on your representation and documentation, we conclude the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code.³ *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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).

We agree the information you have marked in Exhibit B is highly intimate or embarrassing and not a matter of legitimate public interest. We therefore conclude the city must withhold the marked information in Exhibit B 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). The city must withhold the vehicle identification numbers and license plate year you have marked in Exhibit B under section 552.130 of the Government Code.

³As section 552.108 is dispositive, we do not address your remaining arguments for Exhibit C.

In summary, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code. In Exhibit B, the city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. The city also must withhold the vehicle identification numbers and license plate year you have marked in Exhibit B under section 552.130 of the Government Code. The remaining information in Exhibit B must be released.⁴

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 453316

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴We note that this requestor has a special right of access under section 552.023 of the Government Code to some of the information being released. *See* Gov't Code § 552.023(a). Therefore, if the city receives another request for this information from a person who does not have a special right of access to this information, the city should resubmit this same information and request another decision from this office. *See id.* §§ 552.301(a), .302; Open Records Decision No. 673 (2001).