



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 30, 2012

Mr. Gregory A. Alicie
Open Records Specialist
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2012-08287

Dear Mr. Alicie:

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# 459096.

The Baytown Police Department (the "department") received three requests for case number 2012-14979. You state you will redact the partial social security number you have marked pursuant to section 552.147(b) of the Government Code.¹ You claim portions of the submitted information are excepted from disclosure under sections 552.130 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). You have marked, and we have marked, two license plate numbers that are subject to section 552.130. You note, and we agree, the first requestor has a right of access to his own vehicle's license plate number and the third requestor, as the authorized representative of his insured, has a right of access to his insured's license plate number. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories

¹Section 552.147(b) 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).

not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). Therefore, except for the license plate number that the first and third requestor have a right of access to respectively, the department must withhold the marked license plate numbers under section 552.130.

Section 552.136 of the Government Code provides in part 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”). This office has determined an insurance policy number is an access device for purposes of section 552.136. You have marked insurance policy numbers that are subject to section 552.136. As noted above, the first requestor has a right of access to his own insurance policy number and the third requestor has a right of access to his insured’s insurance policy number. *See id.* § 552.023(a); ORD 481. Accordingly, except for the insurance policy number that the first and third requestor have a right of access to respectively, the department must withhold the marked insurance policy numbers under section 552.136.

We note portions of the remaining information are subject to section 552.101 of the Government Code, which excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”² Gov’t Code § 552.101. This section encompasses the doctrine of common-law privacy. Common-law privacy protects information that (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). Prior decisions of this office have found financial information relating only to an individual ordinarily satisfies the first requirement of the test for common-law privacy but there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 600, 545 (1990), 373 (1983). For example, information related to an individual’s mortgage payments, assets, bills, and credit history is generally protected by the common-law right to privacy. *See* Open Records Decision Nos. 545, 523 (1989); *see also* ORD 600 (personal financial information includes choice of particular insurance carrier). Upon review, we find some of the submitted information is highly intimate or embarrassing and of no legitimate interest. However, the first requestor has a right of access to the marked information that relates to him and the third requestor has a right of access to the marked information that belongs to his insured. *See* Gov’t Code § 552.023(b) (governmental body may not deny access to person or person’s representative to whom information relates on grounds information is considered confidential under privacy principles). Therefore, except for the information that the first and third requestor have a right of access to respectively, the department must

²The 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, 480 (1987), 470 (1987).

withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

In summary, except for the license plate number that the first and third requestor have a right of access to respectively, the department must withhold the marked license plate numbers under section 552.130 of the Government Code. Except for the insurance policy number that the first and third requestor have a right of access to respectively, the department must withhold the marked insurance policy numbers under section 552.136 of the Government Code. Except for the information that the first and third requestor have a right of access to respectively, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 459096

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)