



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 11, 2012

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

OR2012-08903

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# 456077 (Cedar Park Ref. No. 12-451).

The City of Cedar Park (the “city”) received a request for information involving a named individual during a specified time period. You state the city will withhold the driver’s license numbers you marked pursuant to section 552.130(c) of the Government Code and the Texas license plate numbers you marked pursuant to Open Records Decision No. 684 (2009).¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim 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

¹Section 552.130(c) authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the driver’s license and personal identification information described in subsections 552.130(a)(1) and (a)(3). *See* Gov’t Code § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body’s decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide notice to requestor). Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold specific 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.

Code § 552.101. This exception encompasses the doctrine of common-law privacy, which 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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *Id.* at 681-82. A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). We also find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, information relating to routine traffic violations is not excepted from release under common-law privacy. *Cf. Gov't Code § 411.082(2)(B)* (criminal history record information does not include driving record information). The present request is for unspecified law enforcement records involving the named individual. Thus, this request requires the city to compile the individual's criminal history and thereby implicates his privacy interests. Therefore, to the extent the city maintains any information that depicts the named individual as a suspect, arrested person, or criminal defendant, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note you have submitted information that does not depict the named individual as a suspect, arrestee, or criminal defendant or that pertains to routine traffic offenses. Thus, this information is not part of the named individual's criminal history compilation and may not be withheld under section 552.101 on that basis.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. *Gov't Code § 552.130*. We note section 552.130 protects personal privacy. In this instance, the requestor may be the spouse of an individual whose motor vehicle record information is at issue, and thus, may be the authorized representative of this individual. If the requestor is the authorized representative of one of the individuals whose information is at issue, the requestor has a right of access to the marked motor vehicle record information pertaining to that individual under section 552.023 of the Government Code. *See id.* § 552.023(a); *Open Records Decision No. 481 at 4* (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). Accordingly, the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code; however, if the requestor is the authorized representative of one of the individuals whose information is at issue, then the motor vehicle record information pertaining to that individual may not be withheld under section 552.130.

In summary, to the extent the city maintains law enforcement records depicting the named individual as a suspect, arrested person, or criminal defendant, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code; however, if the requestor is the authorized representative of one of the individuals whose information is at issue, then the motor vehicle record information pertaining to that individual may not be withheld under section 552.130.

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,



Charles Galindo Jr.
Assistant Attorney General
Open Records Division

CG/bs

Ref: ID# 456077

Enc. Submitted documents

c: Requestor
(w/o enclosures)