



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2012

Ms. Alexis G. Allen
Counsel for the City of Rowlett
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

OR2012-12575

Dear Ms. Allen:

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# 461965 (File Reference #55746).

The City of Rowlett (the "city"), which you represent, received a request for all calls for service and related reports regarding a specified address and a named individual for a specified time period, including information related to three specified incidents.¹ You claim Exhibits B and C are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 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

¹We note the city received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

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 prongs of this test must be met. *See 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 No. 455 (1987)* (prescription drugs, illnesses, operations, and physical handicaps).

You claim Exhibits B and C are protected in their entirety by common-law privacy. In this instance, Exhibit C reflects the requestor knows the identity of the individual involved, as well as the nature of the incident at issue. Therefore, withholding only the individual's identity or certain details of that incident from the requestor would not preserve the subject individual's common-law right of privacy. Accordingly, the city must withhold Exhibit C in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. However, you have not demonstrated, nor does it otherwise appear, this is a situation in which Exhibit B must be withheld in its entirety on the basis of common-law privacy. Upon review, however, we agree that portions of this exhibit are highly intimate or embarrassing and of no legitimate public concern. Accordingly, the city must withhold the information we have marked in Exhibit B under section 552.101 in conjunction with common-law privacy. However, the city has failed to demonstrate how the remaining information in this exhibit is highly intimate or embarrassing and not of legitimate public concern. Therefore, the city may not withhold any of the remaining information in Exhibit B under section 552.101 in conjunction with common-law privacy.

We note the remaining information in Exhibit B includes driver's license information subject to section 552.130(a)(1) of the Government Code.² This section provides information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1). Upon review, the city must withhold the driver's license information we have marked in Exhibit B under section 552.130(a)(1) of the Government Code.

In summary, the city must withhold the entirety of Exhibit C and the information we have marked in Exhibit B under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the driver's license information we have marked in Exhibit B under section 552.130(a)(1) of the Government Code. The remaining information in Exhibit B must be released.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).*

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 461965

Enc. Submitted documents

c: Requestor
(w/o enclosures)