



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 5, 2012

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

OR2012-14051

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# 463891 (Cedar Park Ref. # 12-623).

The Cedar Park Police Department (the "department") received a request for information pertaining to a specified incident and report number. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 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 Code § 552.101. This section encompasses the common-law right of 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 satisfied. *Id.* at 681-82. The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Whether the public's interest in obtaining personal financial information is

sufficient to justify its disclosure must be determined on a case-by-case basis. *See* Open Records Decision No. 373 (1983). This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate or embarrassing. *See generally* Open Records Decision Nos. 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). Upon our review, we agree the portions of information you have marked in Exhibit B are personal financial details that are not of legitimate public interest. Therefore, we conclude the department must withhold this information under section 552.101 in conjunction with common-law privacy.

You state the department will withhold the driver's license numbers you have marked in Exhibit B under section 552.130(a)(1) pursuant to section 552.130(c) of the Government Code and the Texas license plate number you have marked in Exhibit B pursuant to Open Records Decision No. 684 (2009). Section 552.130(c) authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the motor vehicle record 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 certain notice to requestor). Open Records Decision No. 684 permits a governmental body to redact Texas license plate numbers, which are made confidential by section 552.130(a)(2), without requesting an attorney general decision. ORD 684. However, we note the vehicle identification numbers ("VINs") you have marked are not subject to section 552.130(c) or Open Records Decision No. 684 and, therefore, may not be withheld without requesting a decision from this office. Section 552.130 provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we conclude, in addition to the driver's license numbers and the Texas license plate number you have marked, the department must withhold the VINs you have marked in Exhibit B, the additional VIN we have marked in Exhibit B, the discernible license plate numbers in the video portion of the submitted recording, and the driver's license numbers and the license plate numbers we have indicated in the audio portion of the submitted recording under section 552.130.

Section 552.136 of the Government Code provides, "Notwithstanding any other provision of this chapter, 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." *Id.* § 552.136(b); *see also id.* § 552.136(a) (defining "access device"). This office has determined an insurance policy number is an access device number for the purposes of section 552.136. Accordingly, the department must withhold the insurance policy numbers you have marked in Exhibit B, as well as the insurance policy number we have indicated in the audio portion of the submitted recording, under section 552.136.

In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. In addition to the driver's license numbers and the Texas license plate number you have marked, the department must withhold the VINs you have marked in Exhibit B, the additional VIN we have marked in Exhibit B, the discernible license plate numbers in the video portion of the submitted recording, and the driver's license numbers and the license plate numbers we have indicated in the audio portion of the submitted recording under section 552.130 of the Government Code. The department must withhold the insurance policy numbers you have marked in Exhibit B, as well as the insurance number we have indicated in the audio portion of the submitted recording, under section 552.136 of the Government Code. The department must release the remaining information.

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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 463891

Enc. Submitted documents

c: Requestor
(w/o enclosures)