



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 10, 2012

Ms. Michelle M. Kretz
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2012-16220

Dear Ms. Kretz:

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# 467583.

The City of Fort Worth (the "city") received a request for a specified police report. You state the city will redact certain motor vehicle record information under section 552.130(a)(2) of the Government Code pursuant to the previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007) and certain other motor vehicle information under section 552.130(a)(1) of the Government Code pursuant to section 552.130(c) of the Government Code.¹ You also state the city will redact account numbers pursuant to section 552.136(c) of the Government Code and social security numbers

¹Open Records Letter No. 2006-14726 authorizes the city to withhold, among other information, a Texas license plate number and a Texas license year of a motor vehicle under section 552.130(a)(2) of the Government Code, without the necessity of requesting an attorney general decision. Open Records Letter No. 2007-00198 authorizes the city to withhold, among other information, vehicle identification numbers relating to a title or registration issued by an agency of the State of Texas in which a living individual owns an interest under section 552.130(a)(2), without the necessity of requesting an attorney general decision. Section 552.130(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, a motor vehicle operator's or driver's license or permit issued by an agency of this state, or another state or country. *See* Gov't Code § 552.130(c); *see id.* § 552.130(d)) (entitling requestor to appeal governmental body's decision to withhold information pursuant to section 552.130(c) to attorney general); *see also id.* § 552.130(e)) (requiring governmental body that withholds information pursuant to section 552.130(c) to provide notice to requestor).

pursuant to section 552.147(b) of the Government Code.² You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.³ 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 exception encompasses information that other statutes make confidential. Section 290dd-2 of title 42 of the United States Code provides in part:

(a) Requirement. Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

42 U.S.C. § 290dd-2(a); *see* 42 C.F.R. §§ 2.1 (records of identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with performance of drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of United States are generally confidential), 2.12(b) (discussing when an alcohol abuse or drug program is considered to be federally assisted). Upon review, we find none of the submitted information consists of records of the identity, diagnosis, prognosis, or treatment of a patient maintained in connection with the performance of a program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research. Accordingly, the city may not withhold any of the submitted information under section 552.101 of the Government Code under section 290dd-2 of title 42 of the United States Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision” and encompasses information made confidential by statute. Gov’t Code § 552.101.

²Section 552.136 authorizes a governmental body to redact the information described in section 552.136(b) without the necessity of seeking an attorney general decision. *See* Gov’t Code § 552.136(b). If a governmental body redact such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). Section 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 under the Act. *See id.* § 552.147(b).

³Although you also raise section 552.142 of the Government Code, you have provided no arguments regarding the applicability of that exception to the submitted information. Accordingly, we assume you no longer assert that section. *See* Gov’t Code §§ 552.301, .302.

Section 552.101 of the Government Code encompasses common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) 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 type of information considered intimate and 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. Upon review, we find no portion of the submitted information is highly intimate or embarrassing and of no legitimate public concern. Accordingly, the city may not withhold any portion of the submitted information under section 552.101 in conjunction with common-law privacy. As you raise no further exceptions to disclosure, the submitted 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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

Ref: ID# 467583

Enc. Submitted documents

c: Requestor
(w/o enclosures)