



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 17, 2012

Ms. Cheryl K. Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2012-16603

Dear Ms. Byles:

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# 468219 (CFW Public Information Request No. W018928).

The City of Fort Worth (the "city") received a request for information pertaining to Human Relations Commission complaint number FW-11-86 and Housing and Urban Development complaint number 06-11-0761-8. You state the city is releasing the majority of the requested information. You claim some of the submitted information is 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 exception encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information 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 demonstrated. *Id.* at 681-82. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses is protected by common-law privacy. See Open Records Decision No. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). This office has also found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally protected by common-law privacy.

See Open Records Decision No. 545 (1990). Upon review, we find most of the information you have marked, and the additional information we have marked, is highly intimate or embarrassing and not of legitimate public interest. Thus, the city must generally withhold the information at issue under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have failed to demonstrate how the information we have marked for release is highly intimate or embarrassing and not of legitimate public interest. Therefore, the city may not withhold this information under section 552.101 in conjunction with common-law privacy.

We note, however, that the requestor may be the authorized representative of the individual whose information is at issue. Section 552.023 of the Government Code states a person or a person's authorized representative has a special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect the person's privacy interest. See Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles). Accordingly, if the requestor is the authorized representative of the individual whose information is at issue, then, pursuant to section 552.023 of the Government Code, none of the information marked under section 552.101 of the Government Code in conjunction with common-law privacy may be withheld from the requestor on that basis. Otherwise, with the exception of the information we have marked for release, the city must withhold the information you have marked and we have marked under section 552.101 in conjunction with common-law privacy. The city 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 468219

Enc. Submitted documents

c: Requestor
(w/o enclosures)