



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 26, 2012

Mr. Warren M. S. Ernst  
Chief of the General Counsel Division  
City of Dallas  
1500 Marilla Street, Room 7DN  
Dallas, Texas 75201

OR2012-18869

Dear Mr. Ernst:

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# 472243.

The City of Dallas (the "city") received a request for a specified report. You state you will release some of the requested information to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.137 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. Section 552.101 encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *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.

*See id.* at 683. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find that portions of the information at issue are highly intimate or embarrassing and not of legitimate public concern. Thus, the city must withhold the information you have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c). The e-mail addresses listed in the information at issue are not specifically excluded by section 552.137(c). As such, these e-mail addresses, which you have marked, must be withheld under section 552.137, unless the owners of the addresses have affirmatively consented to their release.<sup>1</sup> *See id.* § 552.137(b).

In summary, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the personal e-mail addresses you have marked under section 552.137 of the Government Code, unless the owners of the addresses have affirmatively consented to their release. The remaining information must be released.<sup>2</sup>

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](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

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<sup>1</sup>Open Records Decision No. 684 (2009) serves as a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including e-mail addresses of members of the public under section 552.137, without the necessity of requesting an attorney general decision.

<sup>2</sup>We note the information being released contains confidential information to which the requestor has a right of access. *See* Gov’t Code § 552.023; Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to person to whom information relates or person’s authorized representative on grounds that information is considered confidential by privacy principles). Thus, if the city receives another request for this particular information from a different requestor, then the city should again seek a decision from this office.

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,

A handwritten signature in black ink, appearing to read 'V. Burgess', with a long horizontal line extending to the right.

**Vanessa Burgess**  
**Assistant Attorney General**  
**Open Records Division**

VB/dls

Ref: ID# 472243

Enc. Submitted documents

c: Requestor  
(w/o enclosures)