



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2012

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

OR2012-19410

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# 473073 (Reference Number 12-849).

The City of Cedar Park (the "city") received a request for information pertaining to two specified incidents. You state the city will redact driver's license numbers under section 552.130(c) of the Government Code.¹ You further state the city will redact license plate numbers pursuant to Open Records Decision No. 684 (2009).² You also state the city will redact social security numbers under section 552.147(b) of the Government Code.³ You state the city will release some of the requested information, including basic information. *See Gov't Code* § 552.108(c) (basic information about arrested person, arrest, or crime is not excepted under section 552.108); *see also* Open Records Decision No. 127 (1976)

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a)(1) without the necessity of seeking a decision from the attorney general. *See Gov't Code* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

²Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including a Texas license plate number under section 552.130(a)(2) of the Government Code, without the necessity of requesting an attorney general decision.

³Section 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. *See Gov't Code* § 552.147(b).

(summarizing types of information considered to be basic information). You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us, and provide a statement from the Cedar Park Police Department confirming, that Exhibits C and D relate to pending criminal prosecutions. Based on these representations and our review, we conclude the release of this information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, we conclude the city may withhold Exhibits C and D under section 552.108(a)(1) of the Government Code.⁴

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 doctrine of common-law privacy. Common-law privacy protects information that (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. *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 demonstrated. *See id.* at 681-82. 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 No. 455* (1987) (prescription drugs, illnesses, operations, and physical handicaps). You claim a portion of Exhibit B is protected by common-law privacy. Upon review, we agree the information you have marked in Exhibit B is highly intimate or embarrassing and of no legitimate public concern. Accordingly, the city must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by an agency of this state, or another state or country, is excepted from public release. *See Gov’t*

⁴As our ruling for this information is dispositive, we need not address your remaining arguments against its release.

Code § 552.130(a)(1)-(2). You have marked vehicle identification numbers in Exhibit B under section 552.130. Upon review, we conclude the city must withhold the vehicle identification numbers you have marked and the driver's license class we have marked in Exhibit B under section 552.130 of the Government Code.

In summary, the city may withhold Exhibits C and D under section 552.108(a)(1) of the Government Code. The city must withhold the information you have marked in Exhibit B under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the vehicle identification numbers you have marked and the driver's license class we have marked in Exhibit B under section 552.130 of the Government Code. The city must release the remaining information in Exhibit B.

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# 473073

Enc. Submitted documents

c: Requestor
(w/o enclosures)