



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 28, 2012

Ms. Danielle R. Folsom
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2012-20795

Dear Ms. Folsom:

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# 475366 (GC No. 20100).

The City of Houston (the "city") received a request for the winning proposal for Bid S24001 for automotive glass and repair services. Although you take no position as to the public availability of the submitted information, you state its release may implicate the proprietary interests of Clear Glass Mobile Service Inc. ("Clear Glass"). Thus, pursuant to section 552.305 of the Government Code, you notified Clear Glass of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have received comments from Clear Glass. We have considered the claimed exception and reviewed the submitted information.

Clear Glass claims information contained in the submitted Contractor Submission List Form and Affidavit of Ownership or Control is private and not subject to public release. We understand Clear Glass to raise section 552.101 of the Government Code as an exception to disclosure. This section 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 doctrine of common-law 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.*, 540 S.W.2d at 685. 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 highly 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. We note common-law privacy protects the interests of individuals, not those of business entities. See Open Records Decision Nos. 620 (1993) (corporation has no right to privacy), 192 (1978) (right to privacy is designed primarily to protect human feelings and sensibilities, rather than property, business, or other pecuniary interests).

Upon review, we find none of the submitted information is highly intimate or embarrassing. Accordingly, the city may not withhold any of the submitted information under section 552.101 of the Government Code on this basis. As no other exception to disclosure is raised, the city must release the submitted 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 475366

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Cindy Guillen
Manager
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(w/o enclosures)