



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 1, 2013

Ms. Halfreda Anderson-Nelson  
Public Information Officer  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR2013-05125

Dear Ms. Anderson-Nelson:

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# 482760 (DART ORR # 9555).

Dallas Area Rapid Transit ("DART") received a request for a specified police report. You state DART will release some information to the requestor. You claim a portion of the submitted information is excepted from disclosure under sections 552.130 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country. *See* Gov't Code § 552.130(a)(1)-(2). We have marked the motor vehicle record information that is subject to section 552.130 of the Government Code. We note, however, the requestor in this instance represents the insurance provider for one of the individuals listed in the submitted information. As such, this requestor, if acting as the individual's authorized representative, has a right of access to the insured's marked Texas motor vehicle record information. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). In this instance, it is not clear that this requestor is acting as the individual's authorized representative. Therefore, we must rule conditionally. To the extent the requestor has a right of access under section 552.023 to the insured's Texas motor vehicle record information, DART must release this information to the requestor. To the extent the requestor does not have a right of access under section 552.023, DART must withhold the insured's Texas motor vehicle record information, which we have marked, under section 552.130 of the Government Code. In either event,

DART must withhold the motor vehicle record information that does not pertain to the requestor's insured, which we have marked, under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides in part that "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined an insurance policy number is an access device for purposes of section 552.136. We have marked insurance policy numbers that are subject to section 552.136 of the Government Code. As noted above, however, the requestor represents the insurance provider for one of the individuals listed in the submitted information and may have a right of access to the insured's marked insurance policy number. *See id.* § 552.023(a); ORD 481 at 4. To the extent the requestor has a right of access under section 552.023 to the insured's insurance policy number, DART must release this information to the requestor. To the extent the requestor does not have a right of access under section 552.023, DART must withhold the insured's insurance policy number under section 552.136 of the Government Code. In either event, DART must withhold the insurance policy number that does not pertain to the requestor's insured, which we have marked, under section 552.136 of the Government 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."<sup>1</sup> 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types 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. Prior decisions of this office have found financial information relating only to an individual ordinarily satisfies the first requirement of the test for common-law privacy but there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 600, 545 (1990), 373 (1983). For example, information related to an individual's mortgage payments, assets, bills, and credit history is generally protected by the common-law right to privacy. *See* Open Records Decision Nos. 545, 523 (1989); *see also* ORD 600 (personal financial information includes choice of particular insurance carrier).

Upon review, we find some of the submitted information is highly intimate or embarrassing and of no legitimate interest. However, some of the marked information relates to the requestor's insured, who, as noted above, may have a right of access under section 552.023

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception such as section 552.101 on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

of the Government Code to this information. Gov't Code § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds information is considered confidential under privacy principles). Therefore, to the extent the requestor has a right of access under section 552.023 to the insured's private information, DART must release this information to the requestor. To the extent the requestor does not have a right of access under section 552.023, DART must withhold the requestor's insured's private information under section 552.101 of the Government Code in conjunction with common-law privacy. In either event, DART must withhold the private information that does not pertain to the requestor's insured, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, if the requestor does not have a right of access under section 552.023 of the Government Code to its insured's information, DART must withhold the requestor's insured's (1) marked motor vehicle record information under section 552.130 of the Government Code; (2) marked insurance policy number under section 552.136 of the Government Code; and (3) marked private information under section 552.101 of the Government Code in conjunction with common-law privacy. In any event, DART must withhold (1) the marked motor vehicle record information that does not pertain to the requestor's insured under section 552.130 of the Government Code; (2) the marked insurance policy number that does not pertain to the requestor's insured under section 552.136 of the Government Code; and (3) the marked private information that does not pertain to the requestor's insured under section 552.101 of the Government Code in conjunction with common-law privacy. DART 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](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,



Jeffrey W. Giles  
Assistant Attorney General  
Open Records Division

JWG/dls

Ref: ID# 482760

Enc. Submitted documents

c: Requestor  
(w/o enclosures)