



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 13, 2013

Mr. Christopher S. Jackson
Counsel for the Bexar Appraisal District
Perdue Brandon Fielder Collins & Mott, LLP
3301 Northland Drive, Suite 505
Austin, Texas 78731

OR2013-14093

Dear Mr. Jackson:

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# 496404.

The Bexar Appraisal District (the "district"), which you represent, received a request for records regarding the disabled veteran's tax exemption granted to a named individual.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You inform us, and provide documentation showing, you notified the named individual of the request and of his right to submit comments to this office. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). 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."

¹We note the district sought and received clarification from the requestor regarding the request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *see also City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Id. § 552.101. This section encompasses information that other statutes make confidential, such as section 11.48 of the Tax Code, which provides, in pertinent part:

(a) A driver's license number, personal identification certificate number, or social security account number provided in an application for an exemption filed with a chief appraiser is confidential and not open to public inspection. The information may not be disclosed to anyone other than an employee of the appraisal office who appraises property, except as authorized by Subsection (b).

Tax Code § 11.48(a). The submitted tax exemption application contains a driver's license number, personal identification certificate number, or social security number. You do not indicate, nor does it appear to this office, that any of the release provisions of section 11.48(b) apply in this instance. *See id.* § 11.48(b) (listing five exceptions to confidentiality provision of section 11.48(a)). Thus, the driver's license number, personal identification certificate number, or social security number provided in the submitted exemption application, which we have marked, is excepted from disclosure under section 552.101 of the Government Code in conjunction with 11.48(a) of the Tax Code. However, we find none of the remaining information consists of a driver's license number, personal identification certificate number, or social security number. Accordingly, none of the remaining information may be withheld under section 552.101 in conjunction with section 11.48(a) of the Tax Code.

Section 552.101 of the Government Code also 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. 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 established. *Id.* at 681–82. The type 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. This office has found 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 the information we have marked is highly intimate or embarrassing and of no legitimate concern to the public. Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.²

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

In summary, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 11.48(a) of the Tax Code and common-law privacy. The remaining information must be released.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 496404

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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