



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 30, 2013

Mr. Gregory A. Alicie
Open Records Specialist
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2013-18843

Dear Mr. Alicie:

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 # 504003.

The Baytown Police Department (the "department") received three requests for information about a specified incident. You indicate you will withhold a partial security number pursuant to section 552.147 of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information, which you have marked, is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.

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 exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly

¹Section 552.147 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 under the Act. Gov't Code § 552.147(b).

objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *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 elements of the test must be established. *Id.* at 681-82. Personal financial information related only to an individual ordinarily satisfies the first element of the common-law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 545 (1990), 523 (1989), 373 (1983). We conclude the personal financial information you have marked is confidential under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued an agency of this state or another state or country. *See* Gov't Code § 552.130(a)(1)-(2). We conclude the driver's license and motor vehicle information you have marked falls within the scope of section 552.130 of the Government Code.

Section 552.136 of the Government Code states 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." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). As this office has determined an insurance policy number is an access device for purposes of section 552.136, we conclude the insurance policy numbers you have marked fall within the scope of section 552.136 of the Government Code.²

You indicate you will release selected portions of the information to each requestor. Section 552.023 provides in part that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." *Id.* § 552.023(a). Common-law privacy under section 552.101 of the Government Code, as well as sections 552.130 and 552.136, each protect personal privacy interests. In this instance, your markings suggest one of the requestors represents the insurer of the owner of one of the vehicles involved in the accident, the second requestor represents the owner of a vehicle involved in the accident, and the third requestor is the owner of a vehicle involved in the accident. Thus, pursuant to

²You raise Open Records Decision No. 684 (2009) in bringing your section 552.136 claim. Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including insurance policy numbers, under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision. However, the Texas Legislature amended section 552.136 to allow a governmental body to redact the information described in subsection 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(e). Thus, the statutory amendments to section 552.136 superceded Open Records Decision No. 684. Therefore, a governmental body may only redact information subject to subsection 552.136(b) in accordance with section 552.136, not Open Records Decision No. 684.

section 552.023 of the Government Code, the first two requestors have a right of access to the financial information, motor vehicle information, and insurance policy number of the person they represent. The third requestor has a right of access to her own personal financial information, motor vehicle information, and insurance policy number. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). To the extent the requestors have rights of access under section 552.023, the department may not withhold the marked personal financial information under section 552.101 of the Government Code in conjunction with common-law privacy, the marked motor vehicle information under section 552.130 of the Government Code, or the marked insurance policy numbers under section 552.136 of the Government Code. Otherwise, the department must withhold the marked personal financial information under section 552.101 and common-law privacy, the marked driver's license and motor vehicle information under section 552.130, and the marked insurance policy numbers under section 552.136. The rest of the submitted 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,



Kay Hastings
Assistant Attorney General
Open Records Division

KH/sdk

Ref: ID# 504003

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)