



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 13, 2013

Mr. Grant Jordan
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2013-19802

Dear Mr. Jordan:

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# 510037 (City Public Information Request No. W029314).

The City of Fort Worth (the "city") received a request for information pertaining to a specified incident. The city claims the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exceptions 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." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual

involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

You argue the submitted information must be withheld in its entirety on the basis of common-law privacy. However, you have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the submitted information must be withheld on the basis of common-law privacy. Thus, the city may not withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Nevertheless, we find the information the city has marked under section 552.101 of the Government Code in conjunction with common-law privacy satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information it marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we conclude the remaining information is not confidential under common-law privacy, and the city may not withhold it under section 552.101 on that ground.

Section 552.130 of the Government Code exempts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *See* Gov't Code § 552.130(a)(1). We note section 552.130 protects personal privacy. Thus, the requestor has a special right of access to her own driver's license information. *See id.* § 552.023(a) (person or a person's authorized representative has special right of access, beyond the right of general public, to information held by a governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, the city may not withhold the requestor's own driver's license information from her under section 552.130. The city, however, must withhold the information it has marked, which pertains to an individual other than the requestor, under section 552.130 of the Government Code.¹

In summary, the city must withhold the information it has marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the information it has marked, which pertains to an individual other than the requestor, under section 552.130 of the Government Code. The city must release the remaining information.²

¹We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) 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)

²We note the information being released contains a social security number. Section 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 under the Act. Gov't Code § 552.147(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.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,

A handwritten signature in black ink that reads "Tamara H. Holland". The signature is written in a cursive, flowing style.

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/akg

Ref: ID# 510037

Enc. Submitted documents

c: Requestor
(w/o enclosures)