



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2014

Mr. Jason M. Rammel
Counsel for the City of Round Rock
Sheets & Crossfield, P.C.
309 East Main Street
Round Rock, Texas 78664-5246

OR2014-15205

Dear Mr. Rammel:

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# 534998.

The Round Rock Police Department (the "department"), which you represent, received a request for the police report, 9-1-1 recordings, any related reports, photographs, citations, dispositions of citations, and any other information related to a specified automotive accident involving the requestor's client. You state the department has released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have redacted certain motor vehicle record information in the documents submitted to this office. Further, you state the department will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code and insurance policy numbers pursuant to section 552.136(c) of the Government Code. 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

¹We note, and you acknowledge, the department did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nevertheless, because the exceptions you claim can provide compelling reasons to overcome the presumption of openness, we will consider your claimed exceptions for the submitted information. *See id.* §§ 552.007, .302, .352.

such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.136(c) of the Government Code authorizes a governmental body to redact the information described in section 552.136(b) without the necessity of requesting a decision from this office. *Id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *Id.* § 552.136(d), (e). We note you have redacted the requestor's client's motor vehicle record information and marked an insurance policy number for the requestor's client. However, sections 552.130 and 552.136 protect personal privacy. Accordingly, the requestor has a right of access to her client's motor vehicle record information and insurance policy number under section 552.023 of the Government Code, and they may not be withheld from this requestor under sections 552.130 and 552.136, respectively. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, in redacting information pursuant to sections 552.130(c) and 552.136(c) of the Government Code, the department may not redact the requestor's client's motor vehicle record information or insurance policy number.

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. Section 552.101 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). This office has also found personal financial information not relating to the financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 600 (1992), 545 (1990). However, a requestor has a right of access to her client's personal financial information. *See* Gov't Code § 552.023(a); ORD 481 at 4. Accordingly, the department may not withhold the financial information you marked pertaining to the requestor's client on the basis of section 552.101 of the Government Code in conjunction with common law privacy. Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the remaining information you have marked is not highly intimate or embarrassing information or is not of legitimate public concern and, therefore, may not be withheld on the basis of common-law privacy.

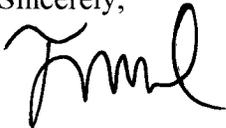
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). As noted above, the requestor has a right of access to her client's motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a); ORD 481 at 4. Upon review, we find the department must withhold the motor vehicle record information we have marked that pertains to an individual who is not the requestor's client under section 552.130 of the Government Code. However, none of the remaining information is subject to section 552.130; thus, the department may not withhold any of it on this basis.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The department 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.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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 534998

Enc. Submitted documents

c: Requestor
(w/o enclosures)