



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 3, 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

OR2014-15453

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# 535020.

The Round Rock Police Department (the "department"), which you represent, received a request for a certified copy of the police report, 9-1-1 recorded calls, any and all other related reports, photographs, citations, dispositions of citations, and any other information regarding a specified accident. You state you have released most of the requested information. You inform us you will redact certain information in accordance with sections 552.130 and 552.136 of the Government Code.¹ You claim portions of the submitted information are

¹Section 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). Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *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(d), (e).

excepted from disclosure under sections 552.101 and 552.130 of the Government Code.² We have considered the exceptions 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." 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. This office has also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 600 (1992) (personal financial information includes choice of a particular insurance carrier). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*.

In this instance, however, it appears the requestor's client is the spouse of one of the individuals whose privacy interests are at issue. Thus, the requestor may be the authorized representative of that individual, and may have a right of access to information pertaining solely to the individual that would otherwise be confidential under common-law privacy. Section 552.023(a) states "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." Gov't Code § 552.023; *see* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, if the requestor is acting as the authorized representative of her client's spouse, then the department may not withhold the portions of the marked information pertaining solely to the requestor's client's wife from this requestor under section 552.101 in conjunction with common-law privacy. If the requestor is not acting as the authorized representative of her client's spouse, then the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. In either event, the department must withhold the information we have marked pertaining to the other

²You acknowledge, and we agree, the department did not comply with the procedural requirements of section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). However, because the department's claims under sections 552.101 and 552.130 of the Government Code can provide compelling reasons for non-disclosure under section 552.302, we will address your arguments under those exceptions. *See* Open Records Decision No. 150 at 2 (1977).

individuals under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. We note section 552.130 protects privacy interests. As noted above, the requestor may be the authorized representative of one of the individuals at issue, and may have a right of access to information pertaining solely to the individual that would otherwise be confidential. *See id.* § 552.023; *see* ORD No. 481 at 4. Accordingly, if the requestor is also acting as the authorized representative of her client's spouse, then the department may not withhold the portions of the marked information pertaining solely to the requestor's client's wife from this requestor under section 552.130. If the requestor is not acting as this individual's authorized representative, then the department must withhold the information we have marked under section 552.130. In either event, the department must withhold the information we have marked pertaining to the other individuals under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, "[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."³ Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* ORD No. 684 at 9. We note section 552.136 also protects privacy interests. As noted above, the requestor may be the authorized representative of one of the individuals at issue, and may have a right of access to information pertaining solely to the individual that would otherwise be confidential. *See id.* § 552.023; *see* ORD No. 481 at 4. Accordingly, if the requestor is also acting as the authorized representative of her client's spouse, then the department may not withhold the portions of the marked information pertaining solely to this individual from this requestor under section 552.136. If the requestor is not acting as the authorized representative of her client's spouse, then the department must withhold the information we have marked under section 552.136. In either event, the department must withhold the information we have marked pertaining to the other individuals under section 552.136 of the Government Code.

In summary, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy and sections 552.130 and 552.136 of the Government Code. However, if the requestor is also acting as the authorized representative of her client's spouse, then she has a right of access to this individual's

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

information under section 552.023 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,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/som

Ref: ID# 535020

Enc. Submitted documents

c: Requestor
(w/o enclosures)