



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 29, 2014

Mr. Dick H. Gregg III  
Counsel for the City of Kemah  
Gregg & Gregg, P.C.  
16055 Space Center Boulevard, Suite 150  
Houston, Texas 77062

OR2014-17260

Dear Mr. Gregg:

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# 537513.

The City of Kemah (the "city"), which you represent, received a request for information concerning a specified address during a certain period. You state the city will release some of the information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 at 2-3 (1986). You state the information in Exhibit B concerns a criminal investigation by a Galveston County grand jury that did not result in a conviction or deferred adjudication. Based on these representations, we conclude the city may withhold the information in Exhibit B under section 552.108(a)(2) of the Government Code. You also claim section 552.108(a)(2) for the information in Exhibit C. However, our review of that information indicates it concerns a civil litigation matter and does not relate to a criminal investigation. Accordingly, we conclude the city has not adequately demonstrated the applicability of section 552.108 of the Government Code to this information, and it may not withhold Exhibit C on that basis.

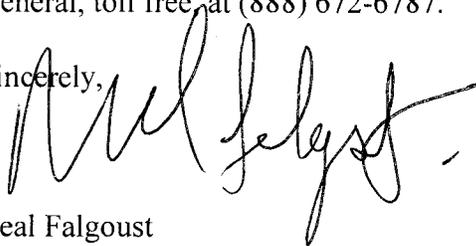
Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses common-law privacy, which protects information that is (1) highly intimate 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. *See id.* at 681–82. The types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we find none of the information in Exhibit C is highly intimate or embarrassing. Accordingly, the city may not withhold the information in Exhibit C under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city may withhold the information in Exhibit B under section 552.108(a)(2) of the Government Code. The city 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](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,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/som

Ref: ID# 537513

Enc. Submitted documents

c: Requestor  
(w/o enclosures)