



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 8, 2014

Mr. Brandon W. Carr
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2014-18053

Dear Mr. Carr:

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# 538662 (Fort Worth PIR No. W035587).

The City of Fort Worth (the "city") received a request for a specified police report. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "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. 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. In this instance, the requestor knows both the identity of the individual involved and the nature of the incident at issue in the submitted

information. Therefore, withholding only the individual's identity or certain details of the incident from the requestor would not preserve the subject individual's common-law right to privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the city must generally withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

However, we note the requestor states in her request for information she has power of attorney for the individual whose privacy interests are at issue. Thus, the requestor may be the authorized representative of this individual, and may have a right of access to information pertaining to him that would otherwise be confidential under common-law privacy. *See* Gov't Code § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"). Because we are unable to determine whether the requestor is the authorized representative of the individual whose privacy interests are at issue, we must rule conditionally. Accordingly, if the requestor is not acting as the authorized representative of this individual, the city must withhold the submitted information in its entirety under section 552.101 in conjunction with common-law privacy. However, if the requestor is acting as the authorized representative of this individual, the city may not withhold the information at issue from this requestor under section 552.101 on the basis of common-law privacy. In that instance, we note some of the information at issue is subject to section 552.130 of the Government Code.¹

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. Gov't Code § 552.130(a). We note section 552.130 protects privacy interests. Therefore, if the requestor is the representative of the individual at issue in the submitted information, then she has a right of access to this individual's driver's license information, as well as to her own driver's license information, pursuant to section 552.023, and this information may not be withheld from her under section 552.130. Further, we note the submitted information indicates some of the driver's license information at issue is fraudulent and invalid. Therefore, none of this information may be withheld under section 552.130. However, the driver's license information we have marked pertains to an individual whom the requestor does not represent, and the city must withhold this information under section 552.130 of the Government Code.

In summary, if the requestor is not acting as the authorized representative of the individual whose privacy interests are at issue, then the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with

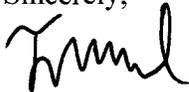
¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

common-law privacy. If the requestor is acting as this individual's authorized representative, then the city must withhold the driver's license information we have marked under section 552.130 of the Government Code and release the remaining information to this requestor.²

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# 538662

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note, to the extent the information at issue is being released, this requestor has a special right of access to this information. *See* Gov't Code § 552.023(a). Therefore, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.