



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 17, 2014

Ms. Heather Silver
Assistant City Attorney
Office of the City Attorney
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2014-20856

Dear Ms. Silver:

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# 543263.

The City of Dallas (the "city") received a request for information pertaining to a specified incident. You state the city will release some of the requested information upon payment of costs. You claim the submitted information is excepted from disclosure under sections 552.101, 552.117, and 552.148 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Section 552.148 of the Government Code provides the following:

- (a) In this section, "minor" means a person younger than 18 years of age.
- (b) The following information maintained by a municipality for purposes related to the participation by a minor in a recreational program or activity is excepted from the requirements of Section 552.021:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

- (1) the name, age, home address, home telephone number, or social security number of the minor;
- (2) a photograph of the minor; and
- (3) the name of the minor's parent or legal guardian.

Gov't Code § 552.148. You state the information you have highlighted in yellow relates to the participation by minors in a city recreational program or activity. Based on your representations and our review, we find the city must withhold the information we have marked pursuant to section 552.148 of the Government Code. However, we note the remaining information you highlighted in yellow pertains to city staff present at the time of the incident. Upon review, we find the information pertaining to city staff is not maintained by the city for purposes related to the participation by a minor in a recreational program or activity. Accordingly, the city may not withhold any of the remaining information under section 552.148 of the Government Code.

Section 552.117(a)(1) of the Government Code excepts from disclosure the current and former home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. *Id.* § 552.117(a). Whether information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). The city may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Therefore, if the individuals whose information is at issue timely requested confidentiality under section 552.024, the city must withhold the information we have marked, as well as the information you have highlighted in pink, under section 552.117(a)(1) of the Government Code. Conversely, if the individuals at issue did not timely request confidentiality under section 552.024, the city may not withhold the marked and highlighted information under section 552.117(a)(1) of the Government Code.

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. The types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. You assert the information you have highlighted in purple is protected by common-law privacy. Upon review, however, we find most of the information at issue is not highly intimate or embarrassing, or is of legitimate public interest. Further, the remaining information at issue

pertains to individuals who have been de-identified and whose privacy interests are, thus, protected. Accordingly, none of the information at issue may be withheld under section 552.101 in conjunction with common-law privacy.

In summary, the city must withhold the information we have marked pursuant to section 552.148 of the Government Code. The city must also withhold the information you have highlighted in pink and the additional information we have marked under section 552.117(a)(1) of the Government Code if the individuals whose information is at issue timely requested confidentiality under section 552.024 of the Government Code. The remaining information must be released.

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,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/bhf

Ref: ID# 543263

Enc. Submitted documents

c: Requestor
(w/o enclosures)