



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 22, 2016

Ms. Captoria Brown
Paralegal
Office of the City Attorney
City of Carrollton
1945 East Jackson
Carrollton, Texas 75006

OR2016-16612

Dear Ms. Brown:

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# 619480 (Ref. No. 7478).

The City of Carrollton (the "city") received a request for specified information pertaining to a specified address. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code. 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. The city asserts some of the submitted information is protected under section 552.101 in conjunction with

common-law privacy. Upon review, however, we find no portion of the submitted information is highly intimate or embarrassing and of no legitimate public concern. Thus, the city may not withhold any of the submitted information under section 552.101 of the Government Code on the basis of common-law privacy.

You also assert the information you have marked is confidential under section 552.101 of the Government Code in conjunction with part 360 of title 12 of the Code of Federal Regulations and in conjunction with the provisions of title 13 of the Code of Federal Regulations. However, you have not directed our attention to any specific provision you contend is applicable to the information at issue, nor have you provided any arguments explaining how or why any of these provisions would be applicable in this instance. Accordingly, we find you have failed to establish the provisions of part 360 of title 12 of the Code of Federal Regulations or the provisions of title 13 of the Code of Federal Regulations apply to the information at issue, and the city may not withhold the information at issue under section 552.101 in conjunction with these provisions. *See* Gov't Code §§ 552.301(e)(1)(A) (governmental body must provide written comments explaining why exceptions claimed are applicable to the information at issue), .302.

Section 552.136(b) 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.” Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). You assert some of the submitted information is protected under section 552.136 of the Government Code. Upon review, however, we find you have not demonstrated any of the information at issue consists of a credit card, debit card, or charge card number, or is an access device number used to obtain money, goods, services, or any item of value, or used to initiate the transfer of funds. *See id.* §§ 552.136(a), .301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). Therefore, we find you have failed to demonstrate the applicability of section 552.136 of the Government Code to the submitted information and the city may not withhold it on this ground. As you raise no further exceptions against disclosure, the city must release the submitted 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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

Ref: ID# 619480

Enc. Submitted documents

c: Requestor
(w/o enclosures)