



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2016

Ms. Stacie S. White
Counsel for the City of Southlake
Taylor Olson Adkins Sralla Elam L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2016-23718

Dear Ms. White:

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# 631289.

The City of Southlake (the "city"), which you represent, received a request for information regarding police service calls and 911 records concerning the requestor's address during a specified time period. You state you will redact certain information pursuant to sections 552.130(c) and 552.147(b) of the Government Code.¹ Further, you state you will redact certain information pursuant to Open Records Decision No. 684 (2009).² You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 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 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b).

²Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general decision. *See* ORD 684.

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. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information you have marked in the submitted documents, and the additional information we have indicated in the submitted audio recording, satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must generally withhold the information you have marked and we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy.

However, we note the requestor may be the representative of the spouse of the individual whose privacy interests are at issue. Thus, the requestor may be the authorized representative of the individual whose privacy interests are at issue, and may have a right of access to information pertaining to this individual 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”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Because we are unable to determine whether the requestor is acting as 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 the individual whose privacy interests are at issue, the city must withhold the information you have marked and we have indicated under section 552.101 in conjunction with common-law privacy and release the remaining information. If the requestor is acting as the authorized representative of the individual whose privacy interests are at issue, then the city may not withhold any of the submitted information under section 552.101 in conjunction with common-law privacy. In that case, the city must release the submitted information to the requestor in its entirety.

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 'Ian Lancaster', written in a cursive style.

Ian Lancaster
Assistant Attorney General
Open Records Division

IML/akg

Ref: ID# 631289

Enc. Submitted documents

c: Requestor
(w/o enclosures)