



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 5, 2006

Mr. Nathan C. Barrow
Assistant City Attorney
Office of the City Attorney
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2006-07061

Dear Mr. Barrow:

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# 253368.

The City of Fort Worth (the "city") received a request for three specified offense reports. You state that the city will release most of the requested information, but you claim that portions of the submitted information are excepted from disclosure under section 552.130 of the Government Code. We have considered the exception 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."¹ Gov't Code § 552.101. This section encompasses the doctrine of common law privacy, which protects information that (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric

¹This office will raise mandatory exceptions to disclosure behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has also found that some kinds of medical information or information indicating disabilities or specific illnesses are subject to common law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). We have marked the information that the city must withhold pursuant to section 552.101 in conjunction with common law privacy.

Section 552.130 of the Government Code excepts from public disclosure information that relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;
- (2) a motor vehicle title or registration issued by an agency of this state; or
- (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

Gov't Code § 552.130. We agree that the Texas driver's license number you have highlighted is excepted from disclosure under section 552.130. We note, however, that section 552.130 protects individual privacy interests. Therefore, the requestor has a right of access to her own Texas driver's license number. *See* Gov't Code § 552.023 (person or person's authorized representative has special right of access to information that is excepted from public disclosure under laws intended to protect person's privacy interest as subject of the information). We further note that a portion of the Texas motor vehicle information at issue may pertain to vehicles in which the requestor has an ownership interest. To the extent that the requestor has a ownership interest in these vehicles, the city may not withhold the related Texas license plate information, which we have marked, from the requestor. *See id.* However, to the extent the that requestor does not have an ownership interest in these vehicles, we conclude that the marked Texas license plate information must be withheld under section 552.130.

We note that the remaining information includes e-mail addresses. Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). The e-mail addresses at issue do not appear to be of a type specifically excluded by section 552.137(c). You do not inform us that the member of the public to whom these e-mail addresses pertain has affirmatively consented to their release. Therefore, the city must withhold the e-mail addresses we have marked under section 552.137.

In summary, we conclude as follows: (1) the marked information must be withheld under section 552.101 of the Government Code in conjunction with common law privacy; (2) the Texas driver's license number you have highlighted and the marked Texas license plate information, provided that the requestor has no ownership interest in the vehicles at issue, must be withheld under section 552.130 of the Government Code; (3) the e-mail addresses we have marked must be withheld under section 552.137 of the Government Code. The remaining information must be released.²

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

²Because some of this information is confidential with respect to the general public, if the city receives a future request for this information from an individual other than the requestor or the requestor's authorized representative, the city should again seek our decision.

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Caroline E. Cho
Assistant Attorney General
Open Records Division

CEC/krl

Ref: ID# 253368

Enc. Submitted documents

c: Ms. Corraine Pullum
9013 Mill Valley Circle, #176
Fort Worth, Texas 76120
(w/o enclosures)