



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 12, 2006

Mr. Rashaad V. Gambrell
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2006-11952

Dear Mr. Gambrell:

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# 261679.

The City of Houston (the "city") received a request for the "application(s) submitted by Citywide Limousine & Transportation, Inc. ["Citywide"] for a vehicle permit/license . . . any permit/license issued to [Citywide] for a vehicle-for-hire vehicle service permit/license . . . and any and all records concerning insurance coverage for [Citywide] for December 1, 2002 to present." You claim that the requested information is excepted from disclosure under sections 552.101, 552.130, 552.136, and 552.147 of the Government Code. We have considered the exceptions you claim and 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. This section encompasses information protected by other statutes. You claim that the submitted information contains fingerprint information, which is governed by sections 560.001, 560.002, and 560.003 of the Government Code.¹ Chapter 560 of the Government Code provides that a governmental body may not release fingerprint information

¹These sections, formerly codified at chapter 559 of the Government Code as sections 559.001, 559.002, and 559.003, were renumbered by the Regular Session of the Seventy-eighth Legislature. See Act of May 20, 2003, 78th Leg., R.S., ch. 1275, § 2 (78), 2003 Tex. Gen. Laws 4140, 4144.

except in certain limited circumstances. *See id.* §§ 560.001 (defining “biometric identifier” to include fingerprints), .002 (prescribing manner in which biometric identifiers must be maintained and circumstances in which they can be released), .003 (providing that biometric identifiers in possession of governmental body are exempt from disclosure under Act). You state that section 560.002 does not permit the release of the fingerprint information in this instance. Accordingly, the city must withhold the fingerprint information we have marked under section 552.101 in conjunction with section 560.003 of the Government Code.

You claim that some of the information consists of criminal history record information. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is 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 demonstrated. *Id.* at 681-82. A compilation of an individual’s criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U. S. Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual’s privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one’s criminal history). Furthermore, we find that a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. We note, however, that the submitted criminal history information was supplied by the applicant, and thus, this information is not criminal history information compiled by the city. Accordingly, no portion of this information may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

We note, however, that this office has found that the personal financial information not relating to a financial transaction between an individual and a governmental body excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we have marked the personal financial information that must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

You claim that portions of the submitted information contain Texas-issued motor vehicle record information that is subject to section 552.130 of the Government Code, which, in relevant part, provides:

(a) Information is excepted from required public disclosure if the information relates to:

(1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a)(1), (2). Upon review, we agree that you must withhold the Texas-issued motor vehicle record information you have marked under section 552.130 of the Government Code.

You claim that portions of the submitted information contain insurance policy numbers that are subject to section 552.136 of the Government Code, which provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, 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. Upon review, we agree that you must withhold the insurance policy numbers you have marked, and the additional policy numbers we have marked, under section 552.136 of the Government Code.

Finally, you claim that the submitted information contains a social security number. Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147. Therefore, the city must withhold the social security number contained in the submitted information under section 552.147 of the Government Code.²

In summary, the city must withhold the fingerprint information we have marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code. The city must withhold the personal financial information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the Texas-issued motor vehicle record information you have

²We note that 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 under the Act.

marked under section 552.130 of the Government Code. The city must withhold the insurance policy numbers you have marked, and the additional policy numbers we have marked, under section 552.136 of the Government Code. The city must withhold the social security number contained in the submitted information under section 552.147 of the Government Code. As you do not raise any other exceptions against disclosure, the remaining information must be released.

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).

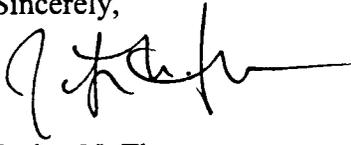
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,

A handwritten signature in black ink, appearing to read 'J. Thompson', with a long horizontal flourish extending to the right.

Jaclyn N. Thompson
Assistant Attorney General
Open Records Division

JNT/dh

Ref: ID# 261679

Enc. Submitted documents

c: Mr. James E. Pennington
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(w/o enclosures)