



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 22, 2007

Mr. Darrell G-M Noga  
Fee, Smith, Sharp & Vitullo LLP  
13155 Noel Road, Suite 1000  
Dallas, Texas 75240

OR2007-02115

Dear Mr. Noga:

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# 275306.

The City of Coppell (the "city"), which you represent, received a request for information related to "all Yucatan Beach Club incidents between March 2004 until Dec[ember] 2004." You state that some responsive information will be released to the requestor. However, you claim that the remaining requested information is excepted from disclosure pursuant to sections 552.101, 552.117, 552.130, and 552.147 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." This section encompasses the common law right of privacy, which protects information if it (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). To

demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *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. United States 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. With regard to the information the city has marked as criminal history however, we find that this information is not a compilation of an individual's criminal history and is therefore not protected by common-law privacy. Thus, the city may not withhold any of the submitted information pursuant to section 552.101 in conjunction with common-law privacy.

You also claim that some of the requested information is excepted from disclosure pursuant to section 552.117 of the Government Code. Section 552.117(a)(1) of the Government Code excepts from public disclosure the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Section 552.117(a)(2) protects the same information regarding a peace officer regardless of whether the officer made an election under section 552.024 or section 552.1175 of the Government Code.<sup>1</sup> We note, however, that the submitted information does not contain any information that is encompassed by section 552.117. Accordingly, the city may not withhold any portion of the submitted information under section 552.117 of the Government Code.

You assert that some of the remaining information is excepted under section 552.130 of the Government Code, which provides that a motor vehicle operator's, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). We agree that the city must withhold the Texas driver's license number and motor vehicle record information you have marked under section 552.130 of the Government Code.

Finally, we claim that social security numbers contained in the submitted information are excepted from disclosure under section 552.147 of the Government Code. This section provides that "[t]he social security number of a living person is excepted from" required

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<sup>1</sup>"Peace officer" is defined by article 2.12 of the Code of Criminal Procedure.

public disclosure under the Act. We agree that the city must withhold the social security numbers you have marked under section 552.147.<sup>2</sup>

To conclude, the city must withhold the marked Texas driver's license and motor vehicle record information under section 552.130 and the social security numbers under section 552.147. The city must release the remaining information.

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

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<sup>2</sup>We 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.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/eb

Ref: ID# 275306

Enc. Submitted documents

c: Ms. Laurie Pendleton  
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(w/o enclosures)