



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 3, 2009

Mr. Christopher Gregg
Gregg & Gregg, P.C.
Attorney for City of League City
16055 Space Center Boulevard, Suite 150
Houston, Texas 77062

OR2009-10720

Dear Mr. Gregg:

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# 350947 (City Reference # 09-186).

The City of League City (the "city"), which you represent, received a request for information reflecting the city's use of a named wrecker service for a specified time period. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request because it does not fall within the dates specified by the requestor. The city need not release non-responsive information in response to this request, and this ruling will not address that 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. Common-law privacy 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. We note that dates of birth are not highly intimate or embarrassing. *See Tex. Comptroller of Public Accounts v. Attorney Gen. of Tex.*, 244 S.W.3d 629, 635 (Tex. App.—2008, pet. granted); Attorney General Opinion MW-283 (1980) (public employee's date of birth not protected under privacy); Open Records Decision No. 455 at 7 (1987) (birth dates, names, and addresses are not protected by privacy). Upon review, we find that none of the submitted information is highly intimate or embarrassing. Therefore, the city may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

You contend that some of the submitted information is subject to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130(a)(1)-(2). We note section 552.130 does not encompass motor vehicle record information of other states. Accordingly, to the extent the information we have marked consists of motor vehicle record information issued by an agency of the State of Texas, the city must withhold it under section 552.130 of the Government Code. The city may not withhold any information that does not pertain to motor vehicle record information issued by an agency of the State of Texas under section 552.130.

We note that some of the remaining information is protected by section 552.136 of the Government Code.¹ Section 552.136 provides that "[n]otwithstanding 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." *Id.* § 552.136. An access device number is one that 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, and includes an account number. *Id.* § 552.136(a). Thus, the city must withhold the insurance policy and account numbers we have marked under section 552.136 of the Government Code.

In summary, to the extent the information we have marked consists of motor vehicle record information issued by an agency of the State of Texas, the city must withhold it under section 552.130 of the Government Code. The city must withhold the insurance policy and account numbers we have marked under section 552.136 of the Government Code. The remaining information must be released.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

Ref: ID# 350947

Enc. Submitted documents

cc: Requestor
(w/o enclosures)