



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 2, 2009

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2009-15519

Dear Mr. Phillips:

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# 360272 (Fort Worth PIR No. 5247-09).

The City of Fort Worth (the "city") received a request for call records related to a specified address during a specified time period. You claim the submitted information is excepted from disclosure under section 552.101 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." 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). 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 treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses is highly intimate or embarrassing. See Open Records Decision Nos. 470 (1987) (illness from severe emotional

and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review we find some of the information you have marked is highly intimate and embarrassing and not of legitimate concern to the public. We have marked the information that is subject to common-law privacy.

However, we note the requestor may be the authorized representative of the person whose right to privacy is implicated by this request. An authorized representative has a right of access to information that must be withheld from the general public on the basis of privacy. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles). If the requestor is acting as his mother's authorized representative, he has a right of access under section 552.023 to the information we have marked under common-law privacy and this information may not be withheld from him. Conversely, if the requestor is not acting as his mother's authorized representative, then he does not have a right of access to this information, and the city must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

The remaining information contains a Texas license plate number. Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency. Gov't Code § 552.130(a)(1), (2). However, we note section 552.130 protects privacy interests. To the extent the requestor is the authorized representative of the individual whose motor vehicle record information is at issue, the city may not withhold this information under section 552.130. *See id.* § 552.023(b).

In summary, the city must withhold the information we have marked under section 552.101 in conjunction with common-law privacy unless the requestor is an authorized representative of the individual whose information is at issue. The city must also withhold the Texas license plate number we have marked under section 552.130 unless the requestor is an authorized representative of the individual whose information is at issue. The remaining information must be released.

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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 360272

Enc. Submitted documents

c: Requestor
(w/o enclosures)