



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 22, 2009

Mr. Gary A. Scott
Assistant City Attorney
City of Conroe
P.O. Box 3066
Conroe, Texas 77305

OR2009-18163

Dear Mr. Scott:

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# 365154.

The City of Conroe (the "city") received a request for a specified incident report. You claim the requested information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [if] release of the information would interfere with the detection, investigation, or prosecution of crime." A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a case that is currently open and active. The submitted information, however, indicates the investigation at issue was closed and no charges were filed. As such, it is unclear whether the submitted information pertains to a pending investigation. Because you have provided this office with conflicting representations, we find you have not demonstrated the applicability of section 552.108(a)(1). *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain

how claimed exception to disclosure applies). Thus, none of the submitted information may be withheld under subsection 552.108(a)(1).

Some of the submitted information is excepted under section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses the doctrine of common-law privacy. Common-law privacy 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). Prior decisions of this office have found financial information relating only to an individual ordinarily satisfies the first requirement of the test for common-law privacy but there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 600 (1992), 545 (1990), 373 (1983). For example, information related to an individual's mortgage payments, assets, bills, and credit history is generally protected by the common-law right to privacy. *See* Open Records Decision Nos. 545, 523 (1989); *see also* ORD 600 (personal financial information includes choice of particular insurance carrier). The submitted documents contain personal financial information, and the public does not have a legitimate interest in it. *See* Open Records Decision Nos. 620 (1993), 600. Therefore, the city must withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

You assert some of the remaining information is excepted under section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release.¹ Gov't Code § 552.130(a)(1), (2). The requestor has a right of access to his own Texas motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, the city may not withhold the requestor's information under section 552.130. The city, however, must withhold the Texas motor vehicle record information we have marked pertaining to another individual under section 552.130.

To conclude, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and under

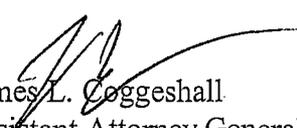
¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general opinion.

section 552.130 of the Government Code. The city must release the remaining information to the requestor.²

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/cc

Ref: ID# 365154

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

²Because the requestor has a right of access to some of the information at issue under section 552.023, the city must again seek a decision from this office if it receives a request for this information from a different requestor.